

***United States Court of Appeals
for the Second Circuit***



APPENDIX

ORIGINAL

76-1443

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IN THE
United States Court of Appeals
For the Second Circuit

UNITED STATES OF AMERICA,

Appellee,

against

ELYAKIM G. ROSENBLATT,

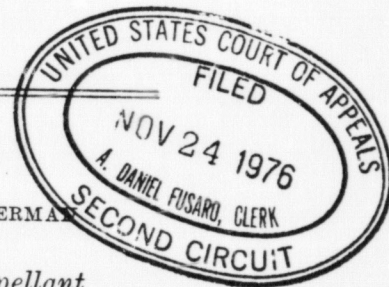
Defendant-Appellant.

On Appeal from the United States District Court
for the Southern District of New York

APPELLANT'S APPENDIX

VOLUME I OF TWO VOLUMES

(Pages A276 to A563)



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bsjb 1

UNITED STATES OF AMERICA

V.

76 Cr. 142

ELYAKIM G. ROSENBLATT

August 12, 1976

oOo

(Trial resumed.)

(In open court in the absence of the jury.)

THE COURT: Juror No. 8, gentlemen, called this morning, Mrs. Mynna Brown, and said that she is ill, has diarrhea and will not be able to attend.

What I think we should do is perhaps substitute the alternate juror and proceed with the trial. She said that she would be at home until noon, at which time she would go to the doctor and try to get some medicine if it has not ceased.

MR. MacBETH: No objection, your Honor.

MR. GOLDMAN: The defense has no objection, your Honor.

THE COURT: All right. We will bring in the jury and proceed with the alternate.

We will have to take a brief recess. Not all

1 bsjb 2

2 the jurors are here, apparently.

3 (Recess.)

4 (In open court - jury present.)

5 THE COURT: Ladies and gentlemen, the court re-
6 ceived a call from Juror No. 8 this morning, Mrs. Brown,
7 that she has become ill, has diarrhea, and would not be
8 able to attend court, and would probably have to go to
9 the doctor today.

10 In order to proceed it is going to be necessary
11 to substitute the alternate juror, James P. McEvady at
12 this time as Juror No. 8.

13 Would you please proceed to that seat.

14 Now, ladies and gentlemen, you may recall that
15 when we recessed last evening the government had rested
16 its case.

17 At this time we will now proceed with the defense.
18 Mr. Goldman, do you want to call your first witness.

19 MR. COOPER: Rabbi Alter Leibowitz, please.

20 R A B B I A L T E R H E N A C H L E I B O W I T Z,

21 called as a witness by the defense, after having
22 been first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. COOPER:

25 Q Rabbi Leibowitz, could you try in answering the

XXX

XXX

1 bsjb 3

Leibowitz - direct

2 questions I put to you to keep your voice up so that I
3 can hear you and everybody in the jury can hear you also.

4 A I will try as best as I can. I have a slight
5 case of voice involvement, so I'll try to do my best.

6 Q Rabbi Leibowitz, could you tell us what positions
7 you presently or in the past have held?

8 A I am the Rosh Yeshiva -- in Hebrew it's the
9 Yeshiva Rabbeinu Cohen.

10 THE COURT: Would you please spell these as you
11 go along, sir, so that the reporter would be able to get
12 it, the names which you are giving us?

13 A I am the Rosh Yeshiva, which is the chancellor
14 or the dean, the head of the school, the rabbinical
15 school, it's called the Rabbi Israel Meyer Cohen, rabbinical
16 seminary of America.

17 Q Rabbi what is your function or your duties in
18 that position?

19 A I teach, I lecture; I am in close contact with
20 the student body, as far as guidance and counseling is con-
21 cerned, and I am head of the faculty.

22 Q How long have you held that position?

23 A Since 1942.

24 Q 1942?

25 A Right.

1 bsjb

Leibowitz - direct

2 Q That is some 33 years, 34 years?

3 A Right.

4 Q Rabbi, do you know Rabbi Elyakim Rosenblatt?

5 A Yes.

6 Q The gentleman seated at the table over here?

7 A Yes.

8 Q For about how long have you known him, sir?

9 A I would say way over 20 years.

10 Q Over 20 years?

11 A Right.

12 Q In what capacity do you know him?

13 A Well, he first came to our school as a student,
14 as a rabbinical student. He stayed for about a year with
15 us and then he transferred to another rabbinical seminary.

16 I believe he was there for a number of -- five
17 or six years. In spite of the fact that he was in another
18 school, he maintained contact with me personally and
19 after his marriage to Mrs. Rosenblatt, he transferred
20 again back to our seminary.

21 Q Where is your seminary located, Rabbi?

22 A In Forest Hills, Long Island.

23 Q Rabbi, do you know other people who also know
24 Rabbi Rosenblatt?

25 A Yes.

bsjb

Leibowitz - direct

273

1 Q Rabbi, could you tell us about how long ago it
2
3 was that you first came to know Rabbi Rosenblatt?

4 A As I said, it was I think more than 20 years
5 ago.

6 Q Rabbi, knowing him for these past 20 years, have
7 you had an occasion to form a personal opinion as to
8 Rabbi Rosenblatt's character in terms of honesty, in terms
9 of integrity, truthfulness and trusting other people?

10 A Yes.

11 Q Could you tell us what your opinion is in that
12 regard?

13 A Our school -- he was very close -- we had a
14 very close personal contact, as I do with most of the
15 students, but especially --

16 MR. MacBETH: Objection, your Honor.

17 THE COURT: Yes. Suppose we have the reporter
18 read the question. I think perhaps you didn't hear the
19 question.

20 (Reced read.)

21 THE COURT: Try to respond to the question.

22 THE WITNESS: Well, I think Rabbi Rosenblatt
23 is very trustworthy, he showed a great interest in the
24 moral and ethical teachings of our Torah and I felt --

25 MR. MacBETH: Objection, your Honor. It is not

1 bsjb

Leibowitz - direct

2 responsive to the question.

3 THE COURT: He is giving an opinion, I think.
4 Proceed.

5 You are giving us your opinion now, is that
6 it?

7 THE WITNESS: Based on my experience with him,
8 yes. And his interest in his studies.

9 He was -- showed very great interest in the
10 ethical and moral values of the Torah teachings, and he
11 maintained -- for that very reason he maintained contact
12 with me throughout the years even while he had transferred
13 to another seminary, because he felt that we are emphasizing
14 these values of sincerity, of compassion and mercy;
15 kindness, the human relationship, and he manifests great
16 special interest in these areas of Torah education, and
17 he enjoyed a very good reputation at our school, which
18 is, as I mentioned before, closely-knit, and it is not a
19 large school and we have very personal contact with the
20 boys.

21 This was the impression, that I was under, that
22 most of his friends at the school had felt that he enjoyed
23 that reputation, especially in these areas, besides
24 Torah scholarship, in the areas of human relationship,
25 ethics and values and compassion, kindness for people,

1 bsjb

Leibowitz - direct

2 human relationship, integrity and sincerity, and commit-
3 ment to ideal of the Torah dissemination.

4 MR. COOPER: Rabbi, thank you.

5 (Continued on next page.)
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bsb-1 Leibowitz-cross

CROSS-EXAMINATION

BY MR. MACBETH:

Q Rabbi Leibowitz, have you heard the testimony in this case?

A Testimony?

Q Yes. The testimony of the other witnesses who have been on the witness stand in this case?

A No, it is the first time I am here in court.

Q Have you examined any of the exhibits that have been presented in this trial?

A No.

Q Before today, this is your first association with this case, the facts of this case, is that correct?

A Well, I don't know exactly -- could you please define your question.

Q Your coming here today and testifying is your first association or participation in any way with this case, is that correct?

A Well, I knew that Rabbi Rosenblatt had this problem some time ago. I knew about it.

Q But you have not in any way been present during the trial or been associated with the trial?

A No.

1 bsb-2 Grundblatt-direct

2 MR. MACBETH: I have no further questions,
3 your Honor.

4 THE COURT: Anything further? If not, thank
5 you. You may come down. You may leave. Thank you.

6 (Witness excused.)

7 THE COURT: Next witness.

8 MR. COOPER: Rabbi Grundblatt.

9 J O S E P H G R U N D B L A T T, called as a witness
10 by the defense, being first duly sworn, was examined and
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MR. GOLDMAN:

14 Q Can you tell us what positions you hold or
15 what positions you serve in now or in the past?

16 A I am the spiritual leader of the Queens Jewish
17 Center, that is in Forest Hills.

18 Q Do you know Elyakim Rosenblatt?

19 A Yes.

20 Q Can you tell us how long you know him?

21 A Well, at least three years, four years, maybe
22 more than that. But I am under oath, so I can't give an
23 exact figure, but a number of years, yes.

24 Q During that time have you observed him
25 and associated with him and had knowledge of him?

1 bsb-3

Grundblatt-direct

2 A Yes.

3 Q Do you know other people who also know him?

4 A Yes.

5 Q Have you had occasion to speak to those other
6 people about Rabbi Rosenblatt?

7 A Yes.

8 Q Can you tell us, Rabbi, that based on your con-
9 versations with other people, what is Rabbi Rosenblatt's
10 reputation for honesty, truthfulness, morality?

11 A Very good. I have known some congregants of
12 his, and of course colleagues in the community that have
13 known him longer than I have, and they all have the highest
14 opinion of him.

15 Q And during the course of this time that you
16 have known him and known other people, have you come to form
17 a personal opinion of Rabbi Rosenblatt?

18 A Yes.

19 Q Can you tell us what that opinion is that you
20 have formed?

21 A The same. As a matter of fact, I have taught
22 Rabbi Rosenblatt -- Rabbi Rosenblatt runs a seminary for
23 young men and women, and he has asked me to give some courses
24 there, which I have over the past several years, and
25 that gave me an opportunity to get to know him very well.

bsab-4

Grundblatt-direct

If I am permitted, I don't know if it is proper, just a little incident, which I was thinking about, it kept coming to my mind.

My remuneration was on a per diem basis, I would give a certain number of lectures on a per diem basis, and I vividly recall a situation, small classes and one evening I came to school, it was a terrible evening, a storm almost comparable to what we had the other day, and none of the students showed up, and of course I waited for ten minutes and I said to him, "Well, there is no point. I am going home," and he insisted, he wanted to pay me for that evening because I had come.

I said, "No, after all I didn't teach," and he just kept on saying, "You canceled other possible activities for the evening, and I ought to pay you."

And I was quite impressed. It didn't strike me as a person of greed and callusness who would have that moral sensitivity.

Q Did you find him to be a trusting person?

A Well, I didn't have occasion -- I didn't make him any offers, but --

Q I didn't mean that, just generally.

A My impression was as a person, I would say he is that type of person, yes.

bsb-5 Grundblatt-cross

MR. GOLDMAN: Thank you very much, sir.

CROSS-EXAMINATION

BY MR. MACBETH:

Q Rabbi Grundblatt, have you heard any of the testimony in this case?

A No.

Q Have you examined any of the documents put in evidence in this case?

A No.

Q Have you at any time been in the courtroom and seen any of the conduct of this trial?

A No.

MR. MACBETH: I have no further questions.

THE COURT: Anything further?

MR. GOLDMAN: No further questions.

THE COURT: Thank you. You may come down.

(Witness excused.)

MR. COOPER: Rabbi Abraham Ginzberg.

ABRAHAM GINZBERG, called as a witness by the defense, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. COOPER:

Q Could you tell us please what positions

bsb-6 Ginzberg-direct

you presently hold?

A I am the rabbi of Congregation Chofetz Chaim, and the executive director of the Rabbinical Seminary of America.

Q Would you please tell us what the Rabbinical Seminary of America is?

A The Rabbinical Seminary of America is a school which encompasses students from various branches, from elementary levels until post-graduate, the different names and branches.

Q Rabbi, do you know Rabbi Elyakim Rosenblatt?

A Yes, I do.

Q Please tell us how long you have known him and how you came to know him?

A I have come to know Rabbi Rosenblatt some time in the early fifties as a student with me in the same seminary.

From then on, on and off we knew each other; he was in a different seminary and came back, and we knew each other through the years up until this day.

Q Since the early 1950's, sir?

A Right.

Q Rabbi, do you also know other people who know Rabbi Rosenblatt?

A Yes, I do.

1 nsb-7

Ginzberg-direct

cross

2 Q Have you had an opportunity to discuss with
3 those people or converse with those people relative to
4 Rabbi Rosenblat's reputation in the community for honesty,
5 integrity, truthfulness and being a trusting person?

6 A Perhaps it may have been such occasions, I
7 could not recall specifically, but I am sure there must
8 have been such occasions. I cannot recall specifically.

9 Q Do you know, Rabbi, and can you tell us what
10 that reputation is for those traits that I have mentioned?

11 A To the best of my knowledge, all the years he
12 has been an honest, sincere fellow, hard-working man.

13 He opened a school and -- a school for boys and
14 I sent my own son to study in his school for a period of
15 about a year, which shows that I have high regard for him.

16 MR. COOPER: Thank you, sir.

17 CROSS-EXAMINATION

18 BY MR. MACBETH:

19 Q Rabbi Ginzberg, have you heard any of the
20 testimony in this case?

21 A No.

22 Q Have you examined any of the documents which
23 have been introduced in evidence in this case?

24 A No, sir.

25 Q Have you at any time been in the courtroom and

1 bsb-8 Ginzberg-cross
2 Bernstein-direct
3 seen any part of the trial of this case?

4 A No, sir.

5 MR. MACBETH: I have no further questions.

6 THE COURT: If there is nothing further, you
7 may come down.

8 Thank you.

9 (Witness excused.)

10 MR. COOPER: Louis Bernstein.

11 L O U I S B E R N S T E I N, called as a witness by
12 the defense, being first duly sworn, was examined
13 and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. COOPER:

16 Q Rabbi BERNSTEIN, would you please tell us
17 what positions you presently hold?

18 A At this time I am the rabbi of the Young Israel
19 of Windsor Park in Baside. I am an instructor at the
20 Yeshiva University. I am the president of the Religious
21 Zionists of America, an organization of some 20,000
22 supports of Israel. I am the past president of the
23 Rabbinical Council of America, and I am a former chaplain
24 in the United States Army.

25 (continued on next page.)

Bernstein-direct

1 ijb

2 Q Rabbi, do you know Rabbi Elyakim Rosenblatt?

3 A I do.

4 Q How long have you known him?

5 A I know him for 21 years.

6 Q Rabbi, do you know other people who also know
7 Rabbi Rosenblatt?

8 A I do.

9 Q Have you had an opportunity, sir, to discuss
10 with these other people who also know Rabbi Rosenblatt,
11 his reputation in the community for honesty, integrity,
12 morality and being a trusting person?

13 A Yes, I have.

14 Q Please tell us what that reputation is.

15 A The reputation is an excellent one for integrity
16 and honesty. In fact I would say exceptionally good,
17 one who leans to the other side when in doubt.18 Q Do you have a personal opinion of those traits
19 I just mentioned?

20 A I do.

21 Q Could you tell us what that is?

22 A I identify myself with that opinion.

23 Q Are there any specific instances of conduct that
24 you look to in forming that opinion?

25 A Yes. He has called me in cases where either

1 jpb Bernstein-direct
2 cross
3 needy people or needy students required help. I also
4 know him to be an exemplary son to his father who passed away
5 recently, who was very sick.

6 Q Have you been present for any part of this trial
7 other than your appearance today?

8 A No, I was out of town.

9 Q Have you heard any of the testimony?

10 A No, I am away from the city.

11 MR. COOPER: Thank you, sir.

12 CROSS-EXAMINATION

13 BY MR. MACBETH:

14 Q Have you examined any of the documents in this
15 trial?

16 A No, sir.

17 MR. MACBETH: No further questions, your Honor.

18 THE COURT: Thank you, you may come down.

19 (Witness excused.)

20 MR. GOLDMAN: Defense calls Mrs. Fox.

21 F L O R E N C E F O X, called as a witness by the
22 defense, being first duly sworn, was examined and
23 testified as follows:

24 DIRECT EXAMINATION

25 BY MR. GOLDMAN:

Q Mrs. Fox, do you know Rabbi Rosenblatt?

jpb

Fox-direct

1
2 A Yes, I do.

3 Q Can you tell us how long you know him?

4 A Five years.

5 Q In that period of time, do you know other people
6 who know him?

7 A Yes, a number of people in the neighborhood
8 that know him.

9 Q Have you discussed the rabbi with other people
10 in the neighborhood?

11 A Occasionally, with friends, yes.

12 Q Based upon your conversations with other people,
13 can you tell us the rabbi's reputation for honesty, truth-
14 fulness, morality, trustworthiness and compassion?

15 A Well, I can only know him as an honest person.
16 I think his entire upbringing and background maintains
17 that he must be an honest person. I don't know -- I
18 can't imagine that he could do anything or think of anything
19 wrong. He couldn't possibly do that.

20 MR. MACBETH: Objection.

21 THE COURT: The question to you, what is his
22 reputation in the community?

23 THE WITNESS: IN the community? In our neighbor-
24 hood, as long as we know him and as long as I have known
25 him, we don't know him to be anything but honest and

1 jpb

Fox-direct

2 trustworthy.

3 Q Have you formed a personal opinion of him?

4 A I have to bring in my own personal experience
5 if that is all right with the Court.

6 Q By all means.

7 A In the five years that I know the Rabbi, in
8 the last year especially. Since I lost my husband, I am a
9 recent widow, the Rabbi and his wife have really saved
10 my life in that their home has been open to me 24 hours
11 a day, seven days a week. They have become my family
12 and they have been much kinder to me than my own family.
13 They helped save my sanity.

14 Q Mrs. Fox, you had a rather close association
15 with the Rabbi. In the past years have you worked?

16 A Have I worked?

17 Q Yes.

18 A Yes, I worked all my life.

19 Q What kind of work do you do?

20 A Originally I was a legal secretary and then
21 a reporter and I have a reporting service, I am a business
22 woman, yes.

23 Q You are a business woman.

24 A I am a good one.

25 Q Have you had occasion to observe the Rabbi

1 jpb Fox-direct
2 as a businessman? cross

3 A A businessman? The world's worst. He couldn't
4 possibly be a businessman. I think he might like
5 to be, but he is not. His head has been in the Bible and
6 in the Torah all his life. I don't think he knows
7 anything else. He has absolutely no conception of what the
8 outside world is, of what business is or business acumen.
9 This is my feeling about him.

10 MR. GOLDMAN: Thank you very much.

11 CROSS-EXAMINATION

12 BY MR. MACBETH:

13 Q Mrs. Fox, have you heard any of the testimony
14 in this trial?

15 A No.

16 Q Have you examined any of the documents in this
17 trial?

18 A No.

19 Q Have you been present in the courtroom at
20 any time during this trial?

21 A No, I just came today.

22 MR. MACBETH: I have no further questions, your
23 Honor.

24 THE COURT: If there is nothing further, you
25 may come down.

(Witness excused.)

1 jpb Hofmann-direct

2 THE COURT: Next witness.

3 MR. COOPER: Dr. Louis Hofmann.

4 L O U I S H O F M A N N, called as a witness by
5 the defense, being first duly sworn, was examined
6 and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. COOPER:

9 Q Dr. Hofmann, would you please tell us something
10 about your educational background.

11 A Well, I received my Bachelors degree in 1950.
12 I worked as a chemist for a couple of years, as an
13 electronics technician for another two years. Then I
14 went back to Graduate School at Michigan State University
15 and received my doctorate in educational psychology in
16 1965.

17 Q How are you presently employed?

18 A I work for the City University of New York.

19 Q In what capacity?

20 A I work in the office of special programs.

21 Q What do your functions involve in that position?

22 A I am director of research for the office of
23 special programs.

24 Q What kind of programs are you involved with
25 there?

1 jpb Hofmann-direct

2 A The office of special programs directs the
3 City University SEEK and College Discovery Programs.

4 Q Tell us what those programs involve.

5 A Those are programs for poor city residents who
6 wish to go to college and our program provides stipends
7 and special training in 16 units of the City University.

8 Q How long have you held that position?

9 A About the last two years.

10 Q Before that, what did you do?

11 A I was director of research for Essex County
12 College in Newark, New Jersey .

13 Q Were you employed in another manner before
14 that?

15 A Yes. Before that, when I first came to New
16 York I worked in New York University for one year and I spent
17 five years at Yeshiva University, Downtown Campus.

18 Q Dr. Hofmann, do you know Rabbi Elyakim Rosen-
19 blatt?

20 A Yes, I do.

21 Q How long have you known him?

22 A Approximately five years.

23 Q How did you come to know him?

24 A I met him through his wife, Thelma, who was a
25 graduate student of mine at the Yeshiva, and I was invited

1 jpb Hofmann-direct

2 to their home to visit with them about five years ago.
3 Since that time I have met Rabbi Rosenblatt off and on.

4 Q Do you know other people who know him also?

5 A Yes, I do.

6 Q Have you formed a personal opinion, Dr.
7 Hofmann, as to Rabbi Rosenblatt's character in terms of
8 honesty, integrity, trustfulness and so forth?

9 A Yes.

10 Q Will you please tell us what that personal opin-
11 ion is?

12 A Well, I would regard Rabbi Rosenblatt as
13 having the highest ethical and moral standards. His family
14 and home life would lead me to believe that he leads a
15 very honest and a life of integrity.

16 Q Could you tell us if there is anything specific
17 in the nature and extent of your observation and acquaintance
18 that leads you to that opinion?

19 A Well, personal conversations with the Rabbi
20 over these times and personal observation in his home in
21 his dealings with his wife and children.

22 Q Dr. Hofmann, have you been present at any portion
23 of this trial other than your testimony right now?

24 A Pardon me?

25 Q Have you been present at any portion of this

1 jpb Hofmann-direct
2 Pechter-direct
3 trial than the few minutes you have been on the witness
4 stand?

4 A No.

5 Q You haven't been present when any testimony
6 was given or witnessed any documents?

7 A No, I have not.

8 MR. COOPER: No questions.

9 THE COURT: Any questions?

10 MR. MACBETH: No questions, your Honor.

11 THE COURT: Thank you, you may come down.

12 (Witness excused.)

13 MR. GOLDMAN: Mrs. Pechter, please.

14 C H A V A P E C H T E R, being first duly affirmed,
15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. GOLDMAN:

18 MR. GOLDMAN: May the record reflect that
19 this witness has been here previously, your Honor, during
20 some of the testimony .

21 THE COURT: Yes.

22 Q Mrs. Pechter, do you know Rabbi Rosenblatt?

23 A Yes, I know Rabbi Rosenblatt very well.

24 Q How long have you known him?

25 A Approximately 20 years.

jpb

Pechter-direct

Q Do you know other people who know him?

A Yes, I know a lot of people, I met them through the joint schools that my husband and Rabbi Rosenblatt went to and I am also very friendly with Mrs. Rosenblatt, and we are a close knit community. I know hundreds of people who know Rabbi Rosenblatt.

Q Have you talked about the Rabbi to any of those other people?

A Yes, of ourse. Nobody believes what they have heard the last couple of --

MR. MACBETH: Objection, your Honor.

Q Based upon your conversations with these other people, can you tell us what is the Rabbi's reputation for honesty, truthfulness and morality?

A He is a very straightforward man who would never believe anyone would do anything that is not straight. It is beyond his comprehension. He endows everybody with the same qualities he has got and he is always helping the underdog.

Q Well, the next question is, have you formed an opinion of the Rabbi?

A Yes, I certainly did.

Q Tell the jury what your opinion is.

A I think he is a very straight man. His only

1 jpb Pechter-direct
2 Rosenblatt-direct
3 trouble is he is always helping too many people without
4 selecting because he believes that everybody is worthy
5 and good and needs the help that he can give. This is
6 his goal in life, to help people.

7 MR. GOLDMAN: Thank you very much.

8 MR. MACBETH: No questions.

9 THE COURT: Thank you. You may come down.

10 (Witness excused.)

11 MR. GOLDMAN: Defense calls Rabbi Rosenblatt.

12 E L Y A K I M G. R O S E N B L A T T, the defendant,
13 called as a witness in his own behalf, being first
14 duly affirmed, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. GOLDMAN:

17 Q Rabbi Rosenblatt, how old are you?

18 A Forty-three.

19 Q Are you married?

20 A Yes.

21 Q How long have you been married?

22 A Nineteen years.

23 Q Do you have any children?

24 A Yes.

25 Q How many?

A Three.

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Rosenblatt-direct

2 Q Can you tell us, boys, girls and ages?

3 A The older one is a girl, she is five, and the
4 next one is a boy, he is four, and the baby is two years
5 old.

6 Q Can you tell us, does your wife work or does
7 she have a profession?

8 A Yes, my wife is a psychologist and she just
9 earned her Ph.D. in psychology.

10 Q Can you tell us now your educational background
11 and some of the positions that you hold?

12 A I have studied in Yeshivas all my life. I
13 studied at the Rabbinical College of Telshe --

14 Q Raise your voice.

15 A Rabbinical College of Telshe in Cleveland, Ohio,
16 25 years ago, that is where I graduated high school. After
17 that, I was at the Yeshiva of Rabbi Israel Meyer Cohen,
18 which was for one year. I transferred to Lakewood, New
19 Jersey. Beth Israel Medrash Govosha of Lakewood, New Jersey,
20 where I studied over five years where I was under the
21 guidance of the great Rabbi Aaron Cutler.

22 After that I went to the graduate program of
23 the Rabbi Israel Meyer Cohen seminary where Rabbi Leibowitz
24 was the Dean.

25 Q What do you do presently or what position do you

jpb

Rosenblatt-direct

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presently hold?

A I am presently the Dean of the Rabbinical College of Queens and the Rabbi of Grand Central Synagogue and the Dean of the Beth Jacob Seminary of Queens.

Q Rabbi, do you know a man named Morris Brooks?

A Yes, I do.

Q When for the first time did you meet Morris Brooks?

A I met Morris Brooks some 25 years ago when I was a student at the Rabbinical College of Telshe in Cleveland, Ohio.

Q How long did you know him at that time?

A I only remained in that school for six months. Then I transferred. I only knew him for six months. We learned in that school during the same era.

Q Now, after that time at the school about which you just testified, when again did you next meet or see Morris Brooks.

A Well, I really didn't -- I knew he was in the community and I heard about him, but I had very little to do with him during that entire period.

Q Now, did there come a time when Morris Brooks came to you and asked you to assist him in any way?

A Yes. Yes, there is.

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Rosenblatt-direct

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Q Can you tell us how that came about?

A Well, in July, 1974, I received a call from David Hardoon. He asked me if I might be able to help and do a favor for Morris Brooks.

Q Did he tell you what the favor was or what the nature of it was?

A Yes, he did. He told me that Morris Brooks has a check that he would like to have cashed.

Q Did you say anything to him or anything at all?

A Well, I asked him, "Is it a good check?" He answered, "It is a Government check."

Q What happened after that?

A Well, the next morning Mr. Hardoon and Mr. Brooks came to my office and --

Q What happened?

A Well, Mr. Hardoon reintroduced me to Mr. Brooks because I really had nothing to do with him for the last 25 years, but I did know who he was because we learned at the school during the same era.

Q You knew Mr. Hardoon?

A Mr. Hardoon I knew, yes.

Q How did you know Mr. Hardoon?

A Mr. Hardoon used to come into our school and used to offer his services without remuneration and he

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Rosenblatt-direct

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advised us on various matters regarding fund raising and that is how I knew him.

Q Did he have a business in the neighborhood?

A Yes. He also had a bakery in the neighborhood of which we were clients and he used to be in there with his wife and that is how we really got to meet him.

Q Turning to that morning when Mr. Hardoon and Mr. Brooks came to your office, tell us what occurred there.

A Well, Mr. Hardoon, as I said, reintroduced us and we discussed, we reminded ourselves of old times during the period that we were together at the school. He also told me that he lived in Kew Garden Hills originally, he had a tragic life, he has five children and no wife. He then moved to Kew Gardens, just general discussion in which David Hardoon also participated.

Q Was Mr. Hardoon there the entire time that you were speaking to Mr. Brooks?

A Yes, he was.

Q Now, did there come a time when the subject of a check or the check came up?

A Yes, Mr. Brooks, after our discussion, took out the check and said if I could please do him a favor and have this check cashed for him.

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Rosenblatt - direct

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Q Was there any further conversation?

A Well, I again asked hi, "Is it a good check?"
He says, "You can see it's a government check and what
can be wrong with a government check?"

Q Did you agree to help try to cash it for him?

A Yes, I did. I had known the whole time he had
led a tragic life and I know everybody was trying to help
him. In fact, collections were made for him while he
lived in Garden Hills to help him pay his rent to help
him bring up his children because there was no mother and
the word was that everybody should always try to help
Morris Brooks and I wanted to do my share.

Q Now, Rabbi, at that time, did he tell you any-
thing about people trying to hide this money?

A No.

Q Did he tell you anything about people trying to
evade taxes?

A The word tax, t-a-x, was never mentioned in any
of our transactions, never.

Q Did you say that you would not cash it for him
unless he agreed to pay you something?

A I did not ask him for a nickel. I did it only
as a favor. I expected nothing for it in return.

Q Did you say you had to call your accountant?

1 jpjb 2

Rosenblatt - direct

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2 A I did not say -- did not mentio. calling an
3 accountant. Maybe I mentioned I should have been an account-
4 ant, but not to call one.

5 Q Now, did Mr. Brooks offer you any explanation
6 about how he happened to have this check or what it was?

7 A Well, Mr. Brooks mentioned he had something. I
8 don't recall whether it was at that first transaction or
9 at the second. But he did mention the following: He
10 said that the check, the ticker in the Post Office that
11 makes out the names to the checks made a mistake and it
12 should have written incorporated after the name. The
13 ticker made a mistake and omitted the word incorporated.

14 The people who had these checks didn't want to
15 wait and mail it back to the Post Office to have it
16 credited because this would take some six months to a
17 year until it goes through the red tape and these people
18 wanted cash for it right away.

19 Q Did you ask him any further questions after
20 that?

21 A No, I didn't.

22 Q Did he ever make any other explanation after
23 that?

24 A No, he didn't.

25 Q Did you have any knowledge that anything was

1 jpjb 3 Rosenblatt - direct 300
2 wrong whatsoever with this check or the people who wanted
3 to cash it?

4 A Absolutely not.

5 Q What happened after that?

6 A Well, after that, we went to the bank and deposited
7 that check and three days later Morris Brooks called me
8 and asked if the check -- if he could come down to get the
9 cash for the check and I said all right.

10 So, I met him at the bank and I had the check-
11 book there and I started making out the check and he told
12 me to make it out for \$9,000, which I did. I tore the check
13 out and I started to make out another check because the
14 amounts of the first deposit was \$10,000. He said, no
15 other check. All we want is \$9,000.

16 Q What happened then?

17 A Well, I insisted that he get \$10,000 because he
18 deposited \$10,000 and I wanted to return \$10,000. He
19 said no. I should only make out this one check and that's
20 it.

21 Q Did you subsequently give him any more money?

22 A Yes. When I got home or the next day or maybe
23 two days after that, I felt very badly that he had de-
24 posited \$10,000 into my account and I only returned
25 \$9,000, but I also realized that he wanted us to have

jpjb 4

Rosenblatt - direct

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1 something for it, so I mailed him a check of \$700.

2 Q Let me show you what's been marked as Exhibit A.
3 Is that the check that you gave to Morris Brooks?
4

5 A Yes, it is.

6 Q So that on that first transaction, out of \$10,000
7 you returned to Morris Brooks \$9700?

8 A That's correct.

9 Q Now, did there come a time when Morris Brooks
10 came with any further checks?

11 A Yes. I don't remember the exact date. But
12 there was a time when he came with a second transaction.

13 Q Can you tell us what occurred then?

14 A Yes. This time he called me again and asked me
15 if we would be able to cash this check for him and help
16 him out and he said -- I said, yes, why not.

17 He brought the check over and this time he was
18 very insistent that we take a bigger percentage. I didn't
19 want to but he was very insistent.

20 Q Did you finally agree or what occurred?

21 A Well, I agreed, but this time -- I agreed only
22 if the check was deposited into the account of the
23 Rabbinical College of Queens because I rather that they
24 should benefit from it than my own personal gain.

25 Q You agreed to take it provided it went to the

1 jpjb 5

Rosenblatt - direct

2 Rabbinical College of Queens?

3 A Yes.

4 Q Do you recall the amount of the second check?

5 A \$9,700; I'm not sure.

6 Q Let me show you what's been marked as Govern-
7 ment's Exhibit 10. Can you identify that as the check
8 that Morris Brooks came to you on the second occasion
9 with?

10 A Yes.

11 Q I direct your attention to the back of this
12 check, did you place a stamp on that check?

13 A Yes, I placed a stamp on the Rabbinical College
14 of Queens.

15 Q Was that check deposited in the account of the
16 Rabbinical College of Queens?

17 A Yes, it was.

18 Q Now, let me ask you this. On the first, second
19 third or on any occasion, did you make any attempt to
20 secrete whatever participation you had with regard to cash-
21 ing of these checks?

22 MR. MacBETH: Objection, your Honor, it calls
23 for the mental process of the witness.

24 THE COURT: Yes. It calls for a conclusion on
25 the part of the witness.

jpjb 6

Rosenblatt - direct

Q Rabbi, did you go to the Chase Manhattan Bank?

A Yes, I did.

Q Were you known there?

A Yes, I was.

Q Did you know Mr. Rankel?

A Yes, I did.

Q Had you done business with Mr. Rankel?

A Yes.

Q Did you take any steps whatsoever to attempt to insure that Mr. Rankel would not know what you were doing?

A No, I did not.

MR. MacBETH: Same objection.

THE COURT: Well, you can cross examine him on it.

Q Did you place the stamp of the college on the back of the check?

A Yes.

Q Did you ever agree with Morris Brooks to tell Mr. Rankel any kind of false story about how come you were cashing these checks ever?

A No, I did not.

Q Did you ever tell Mr. Rankel that Morris Brooks had loaned money to the college and this was repayment of a loan?

jpjb 7

Rosenblatt - direct

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A No, I didn't.

Q You simply went in and deposited the checks?

A And asked Mr. Rankel to cash it for Morris Brooks.

Q And on a number of occasions, was Mr. Rankel present when the money was given to Mr. Brooks?

A At all the occasions because Mr. Rankel took us both into the bank, into the conference room and he counted out the money and handed the money afterwards to Morris Brooks.

Q Now, on that second transaction, the check was for \$9700, could you tell us how much the Rabbinical College got by virtue of Mr. Brooks' generosity?

A The checks that were issued in return for that was a \$6,000 check and some \$3,000 check, 3200, I'm not sure exactly. The Rabbinical College of Queens was left with something like \$500.

Q Now, again, Rabbi, let me ask you: At any time did Morris Brooks ever tell you that the payees on these checks were trying to hide this money from the government?

A Absolutely not.

Q At any time did he ever tell you that any of these people were trying to evade their taxes?

A Absolutely not.

1 jpjb 8

Rosenblatt - direct

2 Q At any time did he ever tell you anything which
3 led you to believe that there was -- strike that.

4 At any time did he ever tell you that these
5 were kickbacks being made to the payees?

6 A Absolutely not.

7 Q Did he ever tell you at any time that this was
8 payola being given to these payees?

9 A The word payols I heard for the first time yes-
10 terday in the courtroom when Morris Brooks mentioned it.
11 I never heard it until then.

12 Q Incidentally, Rabbi, it's been stipulated, I think,
13 for the record I should ask you.

14 Did you have any idea that Morris Brooks had --

15 MR. MacBETH: I read the stipulation. The
16 stipulation said he did not know.

17 MR. GOLDMAN: I think the witness can state it.
18 I want to ask him if he knew the checks were stolen.

19 THE COURT: Ask him that.

20 Q Rabbi, did you know that Morris Brooks had
21 stolen these checks?

22 A Absolutely not. If I would have known anything
23 like that, I would have not let him near my school.

24 Q Do you recall the next transaction, Rabbi, and
25 I'll try and help by pulling out the check, if I can.

1 Do you recall the next transaction and let me
2
3 show you what's been marked as Government's Exhibit 11.

4 A Yes.

5 Q Do you have any recollection of what occurred
6 with regard to that one?

7 A Well, the same thing. He called me before that
8 he had the check and either he came himself or he sent
9 Mr. Hardoon over with the check.

10 We deposited it; after it cleared, we issued
11 our check back to him.

12 Q On that occasion do you recall the amount of
13 the check that you issued back to him?

14 A I think it was something like 24,000.

15 Q Let me show you what's been marked as Government's
16 Exhibit 12. Is that the check that was issued?

17 A Yes.

18 Q That was issued by the Rabbinical College?

19 A Yes.

20 Q What was the amount?

21 A 24,200.

22 Q Was that pursuant to a conversation with Morris
23 Brooks?

24 A Well, Morris Brooks told me what to make the
25 check out for.

jpjb 10

Rosenblatt - direct

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1 Q At any time did you ask him for any money?

2 A I never asked him for a nickel.

3 Q At any time did you say you would not cash it
4 if he didn't?

5 A Absolutely not.

6 Q Or that these people wouldn't?

7 A No.

8 Q And the money was deposited in the account of
9 the Rabbinical College?

10 A Yes.

11 Q Now, after that with regard to the next trans-
12 action -- let me show you Government's Exhibit 13 -- does
13 that refresh your recollection as to the next transaction?

14 A Yes.

15 Q At the time of that transaction, did Mr. Brooks
16 tell you anything about anybody trying to hide money from
17 the government?

18 A Absolutely not.

19 Q Did he tell you anything about trying to evade
20 taxes by these people?

21 A No.

22 Q Kickback --

23 MR. MacBETH: Could we omit the repetition?

24 THE COURT: Yes. The proper question to the
25

1 jpjb 11

Rosenblatt - direct

2 witness is what did Morris Brooks say to you and what did
3 you say to him.

4 MR. GOLDMAN: This is in the form of a denial to
5 save time.

6 MR. MacBETH: It is improper question and Mr.
7 Goldman knows it.

8 THE COURT: Yes, it is. It is improper and
9 leading and it suggests an answer. Ask the witness what
10 Mr. Brooks said on that occasion and what he said to Mr.
11 Brooks.

12 MR. GOLDMAN: May we ask the U.S. Attorney of
13 what I presume as to what I know. Because if we were here
14 on what I know, we would not be here.

15 MR. MacBETH: Would you ask Mr. Goldman not to
16 editorialize, please, in front of the jury.

17 THE COURT: Yes.

18 Q Rabbi, the check.

19 A He called me and said he had another check and
20 if I could help him out again and I said why not. The
21 check was deposited. After three days, we issued a check
22 back to Morris Brooks in return for this.

23 Q What is the amount for that check?

24 A \$32,000.

25 Q It was deposited to the Rabbinical College?

jpjb 12

Rosenblatt - direct

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1 A Yes, it was.

2 Q Was there a check issued out by the Rabbinical
3 College?
4

5 A Yes, there was.

6 Q Can you recall the amount?

7 A I think it was \$31,000.

8 Q Now, the check issued out was \$31,000, is that
9 correct?

10 A Yes, it was.

11 Q In addition to that, did you give Morris Brooks
12 any cash besides that?

13 A No.

14 Q So, on that \$32,000 check the college got \$1,000?

15 A Yes.

16 Q And that was all?

17 A That was all.

18 MR. MacBETH: Your Honor, could we refrain from
19 the leading, I mean, it continues.

20 THE COURT: Yes, yes, leading the witness.

21 Q Now, Rabbi, let me show you the next check, if
22 I may. Let me show you Exhibit 14 which is a check --
23 Treasurer of the United States and Exhibit 15 which is a
24 check of the Rabbinical College.

25 First, do you have any recollection with regard

jpjb 13

Rosenblatt - direct

to the check of the United States, do you have anything with regard to that transaction, any recollection?

A Yes. We deposited this check of \$24,600 and after it cleared for three days Morris Brooks came to me. I issued a check to him which he turned to cash.

Q What was the amount of the check issued by the college?

A \$24,600.

Q The exact amount?

A Yes, the exact amount.

Q Can you tell us how it was that the check was issued in that amount?

A Well, as I was making out the check Mr. Morris Brooks always told me the amount to make it in. As I was making out this check, he was quiet, he didn't say anything. So I presumed --

MR. MacBETH: Objection. We are now getting into the mental process of the witness.

THE COURT: Yes. Tell us only what actually occurred, that is what you said and what you did.

A What actually occurred, as I was making out the check, he did not tell me this time --

MR. MacBETH: Objection. We can't have what he didn't say.

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Rosenblatt - direct

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MR. GOLDMAN: Your Honor, silence is a fact. If it is the preceding thing to the writing of the document, it is a fact.

MR. MacBETH: He can state silence.

MR. GOLDMAN: The government has spent all sorts of time putting on witnesses what was said which led to an act.

MR. MacBETH: And we directed the witness to state what conversation was back and forth.

THE COURT: All right, I'm about to rule on your objection. Please tell us only what was said and what was done, not what you assumed.

A I wrote the check for \$24,600.

Q Did anything occur after that?

A Yes. Mr. Brooks insisted that the college should get something for it. So, he did give us some money in cash.

Q Do you recall how much?

A It was about \$1,000.

Q Do you recall what you did with that \$1,000?

A Yes.

MR. MacBETH: Objection, it's irrelevant to the issues before the jury.

THE COURT: Yes, objection sustained.

1 jpjb 15

Rosenblatt - direct

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2 MR. GOLDMAN: May we have a conference at the
3 side bar?

4 THE COURT: Yes.

5 (At the side bar.)

6 MR. GOLDMAN: Your Honor, yesterday Mr. MacBeth
7 put into evidence a safe deposit note indicating visits
8 to a safe deposit box. If Mr. MacBeth tells me he is not
9 going to go into that when he went into the safe deposit
10 box, I'll drop the issue.

11 MR. MacBETH: What he finally did is perfectly
12 admissible. If we are going to have a speech of spending
13 it for the poor children, or something of that sort, that
14 is what I will object to.

15 If it is simply deposited here and a check for
16 it, and that sort, I have no objection to it.

17 MR. GOLDMAN: If Mr. MacBeth is going to use
18 that fact to raise a negative implication against the
19 Rabbi, the Rabbi is entitled to explain what he did with
20 the money.

21 THE COURT: Yes, I think there was evidence
22 yesterday which tended to show that he put the money into
23 a safe deposit box.

24 MR. MacBETH: That's correct.

25 THE COURT: So that the defense can bring out

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Rosenblatt - direct

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where he put the money or what he did with it.

(In open court.)

(Continued on next page.)

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Rosenblatt - direct

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BY MR. GOLDMAN:

Q Rabbi, what did you do with the cash which you received on that occasion?

A The cash was deposited in a safety deposit box at that same bank.

Q Can you tell us what if anything was done with the money that was put in that safe deposit box?

A Yes. That money was maintained for the charity cash fund that the Rabbinical College has had for many years.

Q Can you describe what that fund is?

MR. MacBETH: Ob jection, your Honor. This goes beyond the --

THE COURT: Yes. Sustained.

MR. GOLDMAN: I think Mr. MacBeth is going to try to make something of the fact that the money was put in a box, and I think the witness should be able to tell us --

THE COURT: He has told us that the money went to a charity fund, the cash fund.

THE WITNESS: Right.

Q Incidentally, on all of the transactions that we have discussed, on the checks that I have now asked you about, did you place a stamp on the back of the check?

1 bsjb

Rosenblatt - direct

2 A The government check? Yes.

3 Q What was that stamp?

4 A Rabbinical College of Queens.

5 Q What account was that check deposited?

6 A Rabbinical College of Queens.

7 Q From what account were the checks issued?

8 A Rabbinical College of Queens.

9 Q Did you personally go to the bank?

10 A Yes.

11 Q With M. Brooks?

12 A Yes.

13 Q Did you appear in front of Mr. Rankel on each
14 transaction?

15 A Yes, we did.

16 Q With regard to the next transactions, can you
17 tell us what you recall with regard to them?

18 A Yes. The next transaction was the check of the
19 government of \$38,500. Again that was deposited into the
20 account of the Rabbinical College of Queens, and Mr. Rankel
21 at the bank had asked us at the last transaction that from
22 now on, rather than one big check, if we might break it
23 down because the bank never had that much money available.

24 So on this transaction, where the deposit was
25 38,500, I didn't know exactly how Mr. Rankel wanted the

1 bsjb

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2 checks that we issued and returned to be broken down. I
3 took the checkbook of Rabbinical College of Queens to the
4 bank and as I appeared together with Mr. Brooks before Mr.
5 Rankel, I opened the checkbook and I asked Mr. Rankel,
6 the deposit is 38,500, if you might please tell me how to
7 break this down.

8 Q Did Mr. Rankel tell you the amounts to write the
9 checks out for?

10 A Yes, Mr. Rankel told me exactly to make one
11 check for one amount and the second check for another
12 amount and the third check for another amount. That
13 equaled \$38,500.

14 Q Did you hear Mr. Brooks testify yesterday that
15 those checks were broken down to try and hide what was
16 going on?

17 MR. MacBETH: Objection, your Honor. That mis-
18 states the record. I withdraw it.

19 Q Did you hear Mr. Brooks testify yesterday that
20 the checks were broken down in three checks to try and
21 hide what was going on?

22 A Yes.

23 Q It is your testimony that Mr. Rankel told you to
24 do that?

25 A Yes.

1 bsjb

Rosenblatt - direct

2 Q In what amounts did you make out the checks?

3 A I don't remember.

4 MR. MacBETH: If there's going to be a discussion
5 between the counsel and the witness, would we have it out
6 loud.

7 MR. GOLDMAN: Mr. MacBeth, if you hadn't thrown
8 the checks at me and mixed them up I could have gone
9 through the numbers.

10 THE WITNESS: The first check was -- one check
11 was \$12,000, the other check was \$12,000 and the other
12 check was \$14,500.

13 Q The total of those three checks, did that --

14 A \$38,500.

15 Q The amount of the government check?

16 A \$38,500.

17 Q At any time with regard to this transaction,
18 had you asked Morris Brooks for anything?

19 A No, I didn't.

20 Q After the checks were cashed did he give you
21 anything?

22 A Yes, he did.

23 Q Can you recall what if anything he gave you?

24 A Around \$1,000.

25 Q What did you do with that money?

1 bsjb

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2 A That money was deposited into the charity cash
3 fund, in the safe deposit box.

4 Q I believe there is one more transaction. Can
5 you recall the amount of that check?

6 A \$41,500.

7 Q Can you tell us what that again -- was that
8 stamped?

9 A Yes.

10 Q What was that stamp?

11 A No, there is no stamp on this one. Written in,
12 Rabbinical College of Queens. I recall -- I just noticed
13 it now the first time, I recall that when we went to the
14 bank, we had forgotten to stamp it, so I just signed
15 Rabbinical College of Queens at the bank.

16 Q At the bank did you write out checks against it
17 that day or on another day?

18 A Yes. Again, Mr. Rankel had wanted us to bring
19 the checkbook so he could tell us the amounts to be broken
20 up. I brought the checkbook and he told us again how
21 to break down the checks.

22 Q Do you recall the amounts of the checks that
23 you subsequently wrote?

24 A \$17,350, \$12,150, and 12,000. That should equal
25 41,500.

bsjb

Rosenblatt - direct

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Q The amount of the government check?

A Yes.

Q After -- prior to the time of cashing those checks did you ask Morris Brooks for anything?

A No.

MR. MacBETH: Objection, your Honor. Could we have no leading.

THE COURT: Yes. Ask him what was said by Morris Brooks and what he said to Morris Brooks on that occasion.

Q Do you recall what was said if anything on that occasion?

A Mr. Morris Brooks again insisted that we have something from it, the Rabbinical College should have something from it, and he gave us also approximately \$1,000.

Q What did you do with that \$1,000?

A Also it was put into the safe deposit box of the charity fund.

Q Rabbi Rosenblatt, at any time with regard to these checks did Morris Brooks ever tell you -- did Morris Brooks ever tell you that these people were trying to hide money from the government?

A No.

MR. MacBETH: It's highly -- your Honor, would you instruct the witness not to answer the question when

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Rosenblatt - direct

the opposing attorney is standing up to make an objection?

THE WITNESS: I'm sorry.

(Continued on next page.)

2 THE COURT: Yes. Permit the United States
3 Attorney to make his objection before you answer the ques-
4 tion.

5 MR. MACBETH: It is both repetitious and leading.

6 MR. GOLDMAN: I have never heard that a defend-
7 ant is not allowed to deny the commission of the crime
8 he is charged with, or he is not allowed to refute the
9 testimony of a Government witness. That is all this is.

10 MR. MACBETH: He is certainly allowed to testify
11 in a proper form, to anything that the defense attorney
12 wants to put to him that is relevant. This question is
13 repetitious, it has been asked at least four times.

14 It is also asked consistently in a leading
15 manner rather than asking what the conversations in fact
16 were.

17 THE COURT: Yes, the proper form of the question
18 should be, what did Morris Brooks say to you and what did
19 you say to him on each occasion? And then let the witness
20 tell what was said.

21 MR. GOLDMAN: Your Honor, I think the witness
22 should be entitled to make a specific denial instead of
23 being left to presume that maybe he just didn't remember
24 what was said or something.

25 MR. MACBETH: Mr. Goldman had him make the

bsb-2 Rosenblatt-direct

denial a number of times on this record already, your Honor.

MR. GOLDMAN: There are eight checks, and yesterday the Government witness was asked repeatedly over and over again --

MR. MACBETH: He has repeatedly asked the question in terms of did it ever happen, did it ever happen, and it is patently improper.

MR. GOLDMAN: I will do it check by check, Mr. Macbeth.

Q Rabbi, take a look at the Government checks in front of you. Take each check, read the number on the bottom and tell the jury if at any time with regard to any of those checks Morris Brooks ever told you the people were trying to hide money, the people were trying to evade taxes, it was kickback or it was payola.

MR. MACBETH: That question is repetitious.

If you would like to ask the witness what the conversations were in relation to each of those checks, he is certainly entitled to do so. But he has asked this question on more than one occasion.

THE COURT: I will let him answer the question.

A Should I put them in order?

bsb-3

Rosenblatt-direct

Q No. Just read the number and as to each check, if at any time Morris Brooks ever told you that those people were trying to hid that money from the Government, evade taxes, that it was a kickback or payola to those people.

A The check of July 14, 1975, \$38,500, Mr. Morris Brooks never told me that there was any tax-- anybody hiding any taxes or any payola or kickbacks, never mentioned one word about it regarding this check.

Regarding the check March 17, 1975, \$32,000. Mr. Morris Brooks never mentioned one word about anybody hiding taxes, payola, kickback or anything wrong.

Q Rabbi, would your answer be the same --

A For all the checks.

Q -- with regard to each and every check which has been placed in evidence?

A Yes.

Q By the United States Government.

A Yes.

Q Rabbi, let me ask you, at any time did you intend to defraud the Government of the United States?

A No.

MR. MACBETH: Objection, your Honor. That calls for the mental process --

bsb-4

Rosenblatt-direct

MR. GOLDMAN: It is a specific denial to the specific charge made and I think the witness is entitled to deny it.

THE COURT: I will permit him to answer the question.

Q At any time, by any means, for whatever purpose, or in any manner, did you, together with Morris Brooks, or did you intend to defraud the Government of the United States?

A Absolutely not.

Q At any time did you have any knowledge that there was any impropriety connected with the obtaining or cashing of these checks?

A Absolutely not.

Q At any time did you have any idea that the Government of the United States would be defrauded with regard to the receipt of taxes as the result of your agreeing to cash those checks?

MR. MACBETH: Objection, your Honor. It is becoming conclusory, calling for the mental process of a witness, leading the witness. It is a totally improper question.

THE COURT: I will let him answer the question.

A Absolutely not.

bsb-5 Rosenblatt-direct

Q At any time did you conspire with Morris Brooks to commit any crime, to your knowledge?

A Absolutely not.

MR. GOLDMAN: I have no further questions.

THE COURT: All right. At this time we will take a 15-minute recess. The jury is excused --

MR. COOPER: Before we do that, may we step up for a moment?

THE COURT: All right.

(At the side bar.)

MR. COOPER: I was just outside, one of our character witnesses is here, he told me last night his wife was due on Monday. This morning she went into labor. Our request would be first if we could take him out of order, and second, if we could take him for a few minutes before the recess.

THE COURT: All right.

(In open court.)

THE COURT: The defense counsel has requested an opportunity to call a witness out of turn so he can return to his home because of his wife's condition.

At this time, instead of recessing, we are not going to proceed with the Government's cross-examination, to which there is no objection, and we will take the

Q Do you have a family, Mr. Bryks?

bsb-7

Bryks-direct

A Yes, I do. I have a son aged two and a half and my wife is currently in labor awaiting a second one.

Q Mr. Bryks, do you know Rammi Rosenblatt?

A I do.

Q In what capacity do you know him and for how long?

A I am a congregant in his synagogue and I have known him for approximately one year.

Q Do you know other people who also know Rabbi Rosenblatt?

A I do.

Q Have you had occasion to discuss with those people Rabbi Rosenblatt's reputation for honesty, integrity, morality and for trusting others?

A Yes, I have. On several occasions both before and after the incident, yes.

Q Can you tell us what that reputation is?

A The reputation is for extreme honesty, high ethics and one of modesty and simplicity as well.

Q Do you have a personal opinion as to those characteristics of Rabbi Rosenblatt?

A Yes, I agree with the community entirely in those respects, and I feel him to be an upstanding individual, highly moral and ethical.

1 bsb-8 Bryks-direct

2 Q Is there any specific conduct or instances
3 in your relationship with Rabbi Rosenblatt that you can
4 point to in forming that opinion?

5 A There are several incidents. Most of them are
6 minor so they tend to form a global picture of the individual
7 as opposed to one incident that stands out by
8 itself.

9 An example of such an incident might be the
10 case where I was sponsoring something called a kiddish,
11 which is a little party after services in the synagogue,
12 where the Rabbi made all the arrangements for me in purchasing
13 all the food. When I asked him how much it would
14 cost me, he tendered a bill that was exactly equal to his
15 expenses, without asking for anything additional, which
16 is the usual practice in most synagogues.

17 Q Mr. Bryks, have you heard any of the testimony
18 or seen any of the documents in this case or been present
19 at any other time other than your testimony here this
20 morning?

21 A No.

22 MR. COOPER: Thank you.

23 MR. MACBETH: No questions, your Honor.

24 THE COURT: You may come down. Thank you.

25 (Witness excused.)

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bsb-9

Bryks-direct

THE COURT: At this time we will have a 15-minute recess. Everyone remain seated until the jury has left.

(Jury leaves the courtroom.)

THE COURT: Did you have something?

MR. MACBETH: No.

THE CLERK: The Court will take a 15-minute recess.

(Recess.)

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1 jpb-1 Farber-direct

2 (In open court; jury present.)

3 MR. GOLDMAN: Y our Honor, if we may, I spoke
4 to Mr. Macbeth, subject to your approval. We have some
5 gentleman on a tight schedule, Mr. Macbeth has consented
6 to have him take the stand.

7 THE COURT: All right.

8 S H E L D O N F A R B E R called as a witness by
9 the defense, being first duly sworn, was examined
10 and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. GOLDMAN:

13 Q Mr.Farber, can you ell us your profession and
14 background, please.

15 A I am an attorney-at-law, I am licensed to
16 practice in New York. I also have a rabbinical degree
17 and a degree in sociology and an M.A.A. in NYU. I
18 have lectured at Queens College and Brooklyn College.

19 Q Now, Mr.Farber, do you know Pabbi Elyakim
20 Rosenblatt?

21 A Yes.

22 Q How long have you known him?

23 A Approximately 20 years.

24 Q In that period of time do you know other people
25 who know him?

1 jpb-2

Farber-direct

2 A Yes.

3 Q Have you discussed him with other people?

4 A Yes.

5 Q Based on your conversations with other people,
6 can you tell us what his reputation is for honesty,
7 truthfulness and morality?

8 A Excellent.

9 Q Have you formed an opinion based on your
10 association with Rabbi Rosenblatt?

11 A Yes.

12 Q Could you tell us what that opinion is?

13 A I have always found him to be helpful in com-
14 munity affairs and always to be above-board and honest with
15 his dealings with me and just a general asset to the entire
16 community that he serves.

17 Q Have you sat through any of the testimony in
18 this case?

19 A No , sir.

20 Q Have you appeared in this courthouse before
21 for the purpose of this trial?

22 A No.

23 Q Have you seen any documents in evidence in
24 this case?

25 A No, sir.

jpb

Farber

MR. GOLDMAN: Nothing further.

MR. MACBETH: We have no further questions.

We would offer to stipulate that if the defendant has any witnesses who have the same type of testimony and as long as they weren't present during the trial and seen any of the documents in the trial --

MR. GOLDMAN: We have a few other witnesses who might be a little more specific that might be of necessity to the defendant in their testimony.

MR. MACBETH: This is getting cumulative, your Honor.

THE COURT: All right. We will let you put them on.

MR. GOLDMAN: Thank you, your Honor.

(Witness excused.)

MR. GOLDMAN: Dr. Feinberg.

R A Y M O N D F E I N B E R G, called as a witness by the defense, being first duly affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GOLDMAN:

Q Dr. Feinberg, you are a doctor?

A Yes, I am.

Q Can you tell us what your field is or what your

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Feinberg-direct

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1 type of practice is?

2 A Well, I am -- I practice internal medicine in
3 Forest Hills. I have been there about 20 years. I am
4 a graduate of Georgetown University Medical School, I am
5 now on the staff of Flower Fifth Avenue Hospital, New York
6 Medical College, Metropolitan Hospital and Parkway
7 Hospital.
8

9 Q Dr. Feinberg, do you know Elyakim Rosenblatt?

10 A Yes, I do.

11 Q How long have you known him?

12 A I'd say give or take, about 15 years.

13 Q During that period of time do you know other
14 people who know him?

15 A Yes.

16 Q Have you had occasion to discuss Rabbi Rosenblatt
17 with other people?

18 A Yes, I have.

19 Q Based on your conversation with other people,
20 can you tell the members of the jury what is his reputation
21 for honesty, truthfulness and morality?

22 A He has the highest reputation, a lot of people
23 have respect for him in the community and he is looked up
24 upon.

25 Q Have you had occasion to form a personal opinion

1 jpb Feinberg-direct
2 Good-direct
with regard to those traits in Rabbi Rosenblatt?

3 A Yes, I have.

4 Q What is your opinion?

5 A I certainly agree and more so about what other
6 people say about him. I found him always to be forthright,
7 dedicated, interested in people and things around him in
8 trying to help people.

9 MR. GOLDMAN: Thank you very much, sir.

10 Q Incidentally, Dr. Feinberg, have you been present
11 during any of the testimony in this case?

12 A I have not.

13 Q Have you seen any of the exhibits in this case?

14 A I have not.

15 MR. GOLDMAN: No questions.

16 MR. MACBETH: I have no questions.

17 THE COURT: You may come down.

18 (Witness excused.)

19 MR. COOPER: Dr. Peter Lee Good.

20 P E T E R L E E G O O D, called as a witness by
21 the defense, being first duly sworn, was examined
22 and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. COOPER:

25 Q Dr. Good, would you please tell us something

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Good-direct

of your educational and professional background?

A I became a doctor of medicine in 1949 in England and then I became licensed to practice in New York State in 1954. I became a qualified psychiatrist in New York State in 1960, and a Fellow of the American Psychiatric Association in 1971. I am an assistant director of Central Islip Psychiatric Center, and I am on the staff of Southside General Hospital too, as a psychiatrist.

I have lectured at Adelphi University, C.W. Post and New York School of Psychiatry, and so on.

Q Dr. Good, do you know Elyakim Rosenblatt?

A Yes, I do.

Q How long have you known him?

A Approximately 10 years.

Q How did you come to know him and what is the nature of your relationship?

A I came to know him because his wife was working for me at Central Islip ten years ago. We became friendly and through her, of course, I got to know her husband.

Q In the course of your ten-year acquaintance with Rabbi Rosenblatt, have you had an opportunity to form a personal opinion as to Rabbi Rosenthal's honesty, integrity and morality?

1 jpb Good-direct

2 A Yes, I have.

3 Q Could you tell us what that opinion is?

4 A I think he is an honest man, but he has always
5 struck me as being a trifle naive.

6 Q Dr. Good, have you been present in any part of
7 this trial other than the few minutes you have been on the
8 stand?

9 A No, sir.

10 Q Have you had an opportunity to see any of the
11 documents that were introduced into evidence in this trial?

12 A No, sir.

13 MR. COOPER: No further questions.

14 MR. MACBETH: No questions.

15 THE COURT: Thank you, you may come down.

16 (Witness excused.)

17 THE COURT: All right, you may proceed with your
18 cross-examination, Mr. Macbeth.

19 E L Y A K I M G. R O S E N B L A T T resumed.

20 CROSS-EXAMINATION

21 BY MR. MACBETH:

22 Q Rabbi Rosenthal, you are the Dean of the Rabbinical
23 College of Queens?

24 A Yes.

25 Q Would you describe your position as the manager

jpb Rosenblatt-cross

of that college?

A What is that?

Q Would you describe your position in the management of that college?

A I lecture at the college and I am the Dean of the faculty and also --

Q I am speaking of the management of the institution.

A Yes, I try to see that the college runs and is maintained.

Q You are in fact the manager?

A Yes.

Q What is your relationship to the Beth Jacob Seminary?

A I am the Dean of the Beth Jacob Seminary.

Q What is your position in the management of the Beth Jacob Seminary?

A I try to maintain it and see that it runs.

Q In fact you are the manager of the Beth Jacob Seminary, is that correct?

A Right.

Q The Rabbinical College maintains a bank account of its own, is that correct?

A Yes.

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Q In 1974 and 1975 in the times relevant to this trial, you were the sole signatory on that bank account, is that correct?

A That is correct.

Q That bank account was under your direction and control, is that correct?

A Yes.

Q How many other bank accounts do you have in which you have the direction and control either personal bank accounts or institutional bank accounts?

A We have others, I don't know how many.

Q Could you give us an estimate of how many?

A Not really, I don't know exactly.

Q Well, four, five, ten, can you give us some estimate?

A Ten, about.

Q Ten?

A I am not sure.

Q And you have under your direction and control the ten bank accounts, approximately, ten bank accounts?

A Yes.

Q Is that correct?

THE COURT: Please keep your voice up, I don't know whether I heard the last question. The reporter doesn't

1 jpb

2 have an answer to the question.

3 A The answer is yes.

4 Q Now, through those ten bank accounts, you
5 have done considerable amounts of business, have you not,
6 with the Kew Gardens branch of the Chase Manhattan Bank,
7 the bank where Mr. Rankel is the manager?

8 A Yes.

9 Q You are well known to Mr. Rankel, are you not,
10 through the extensive number of bank accounts that you keep
11 at that bank?

12 MR. GOLDMAN: Objection to the "extensive number.
13 For three different schools it is a very minute number.
14 That is the kind of editorializing that Mr. Macbeth was
15 objecting to.

16 THE COURT: There are three different schools?

17 MR. GOLDMAN: The rabbi testified to Beth Jacob,
18 the Rabbinical College and the third institution.

19 THE COURT: The third is what?

20 THE WITNESS: Is the synagogue, Grand Central
21 Synagogue.

22 Q You are well known to Mr. Rankel through the
23 bank accounts that you maintain at the bank, is that correct?

24 A Yes.

25 Q Is the Rabbinical College of Queens established

1 jpb

Rosenblatt-cross

2 as a charity under the Federal Income Tax laws?

3 A Yes, it is.

4 Q Is the Beth Jacob Seminary established as
5 a charity institution under the Federal Income Tax laws?

6 A Yes.

7 Q And the synagogue as well, is that correct?

8 A Yes.

9 Q Now, you described the conversation that you had
10 with Mr. Hardoon and Mr. Brooks at the time you received
11 the two checks in July of 1974. Let me see if I am
12 correct in what you have testified to. It is your testimony,
13 is it not, that it was Mr. Hardoon, not Mr. Brooks who
14 called you on that occasion, is that correct?

15 A Yes, it was.

16 Q It is your testimony that Mr. Hardoon was present
17 throughout that conversation, is that correct?

18 A Yes, it was.

19 Q It is your testimony that at no time during
20 that conversation did you say that you would check with
21 your accountant or have any conversation in any way that
22 you would get in touch with your accountant?

23 A That is correct.

24 MR. GOLDMAN: Objection, your Honor.

25 The witness said on direct examination that he

1 jpb

2 wished he was an accountant.

3 Q Based upon that conversation that you may
4 have said you wished you were an accountant, you said nothing
5 about consulting or checking with your accountant, is that
6 correct?

7 A That is correct.

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9 (continued on next page.)

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2 Q As to the source of the check, the sum and
3 substance of what Morris Brooks told you was that the word
4 incorporated was missing from these checks and that for
5 that reason the people wanted to have them cashed because
6 turning over to the Post Office would take a considerable
7 amount of time and red tape to get them corrected, is that
8 right?

9 A That's right.

10 Q So, as to the Government's Exhibit 8 which I
11 show you, what Mr. Brooks told you was that that check
12 should not have been made out to Sara Dudley Brown but
13 to Sara Dudley Brown, Incorporated?

14 A That's correct.

15 Q Sara Dudley Brown, Incorporated?

16 A That's correct.

17 Q As to Government Exhibit 9, which I show you,
18 made out to Gloria G. Brown, Mr. Brooks told you that
19 should be made out to Gloria G. Brown, Incorporated?

20 A That's correct.

21 Q You asked Mr. Brooks no further questions at
22 that time about these checks, is that correct?

23 A That's correct.

24 Q Have you not told us -- strike that.

25 Did Mr. Brooks tell you anything further that

1 jpjb

Rosenblatt - cross

2 he had met these people and received the checks from them?

3 A No, he didn't.

4 Q Nothing about how he got hold of the checks?

5 It was simply he knew that these people wanted the checks
6 cashed?

7 A Yes.

8 Q Now, you have not told us a conversation you had
9 with Mr. Brooks at the time when he first called you and
10 then brought you Government's Exhibit 10, the James K.
11 Sullivan check. Would you tell the jury what the conver-
12 sation was at that time?

13 A Is this the second transaction, the third check?

14 Q I believe it is the second transaction. Do you
15 remember receiving any other check in between?

16 A No, I don't.

17 Q Now, what was the conversation you had with
18 Mr. Brooks when you received that check?

19 A I think on this occasion he sent over the -- de-
20 posited this in an envelope with Mr. Hardoon.

21 Q It came to you in an envelope with no prior con-
22 versation?

23 A No, he called before, Mr. Brooks called before.

24 Q What was the conversation you had with him?

25 A He said he has another check and if I would be

jpjb

Rosenblatt - cross

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glad to help him out with it and I said I would.

Q That was the sum and substance of the conversation?

A He said he'd send it over with Mr. Hardoon because he doesn't have time.

Q Any further conversation on the phone?

A No.

Q After that, did you have a further conversation with Mr. Brooks about that check?

A Yes.

Q When did you have a conversation?

A Well, he called me and said he couldn't wait for three days to clear, if we might get him some cash before that, before the three days clears.

Q Did you agree to do that?

A Yes, I did.

Q That was the sum and substance of that conversation?

A As far as I recall.

Q Did you have any further conversation with Mr. Brooks about that check?

A I don't recall. If you have something specific, maybe you can mention it.

Q You recall nothing further about the conversation

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2 about that check, is that correct?

3 A I don't recall.

4 Q You no longer recall the conversation that you
5 had only cashed that check and it was deposited into the
6 rabbinical account?

7 A I mentioned he had that before already.

8 Q I'm asking for the entire conversation, would
9 you give me all the conversation, what further conversa-
10 tion was there?

11 A Well, he said -- he insisted that we take a
12 percentage this time.

13 Q What was the percentage?

14 A We didn't speak about any specific sums, ever.
15 But he insisted that we accept a bigger percentage than
16 what was given last time.

17 Q How much did you in fact take?

18 A From the time before -- \$300.

19 Q No, this time.

20 A This time I think it was \$500.

21 Q What kind of percentage was that?

22 A I don't know exactly. It's less than 10 per cent.

23 Q Is that the total conversation you had with Mr.
24 Brooks as to that check?

25 A Well, I said that if he insists we take a

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Rosenblatt - cross

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larger percentage than I would want it to be in the account of the school rather than in my private account.

Q Any further conversation?

A I don't recall.

Q Did you have any conversation with Mr. Hardoon about that check?

A No, I didn't.

Q He just gave you the envelope?

A Yes.

Q You now have Government's Exhibit 11 in front of you, is that correct?

A That's correct.

Q And that is a check made out to whom?

A Made out to H.L. Dalis.

Q For how much?

A \$27,204.95.

Q Now, what conversation did you have with Mr. Brooks in relation to that check?

A He called me that he had this check and I deposited.

Q Give me the conversation on the phone, what did you say when you spoke to him on the phone?

A He called me that he has another check and if I would be able to help him out.

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Rosenblatt - cross

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Q What did you say?

A I said yes.

Q Then what happened?

A So, he brought it over or he sent it over, I don't recall exactly. We went to the bank and deposited it. After three days --

Q You say we went to the bank and deposited it?

A Yes.

Q What happened -- did you have any conversation at the time -- you say you sent it over and then you went to the bank together to deposit it?

A I said either he sent it over or brought it over, I don't recall exactly. Sometimes he sent it over and sometimes he brought it over. Whenever he brought it over, he went with me to make the deposit and then he would come back three days later. I would go with him to the bank and withdraw the money.

Q Now, on this occasion, you say that he went with you to the bank to deposit it?

A I don't remember exactly if he sent it over or if he brought it over. If he brought it over, he went with me to the bank.

Q Do you recall any conversation that you had with him if he went to the bank with you on that occasion?

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2 A I don't recall.

3 Q Do you remember any conversation that you had
4 with him thereafter in relation to giving him the cash
5 from the check or anything of that sort?

6 A Regarding this specific check?

7 Q That specific check.

8 A Yes.

9 Q Can you describe that conversation to the jury?

10 A When it came to three days later after the
11 check cleared and he came to me and we went to the bank,
12 we took along the checkbook or I made the check out at
13 the school, I'm not sure, but I made the check out and as
14 I was making it out, I paused and waited for him to tell
15 me how much to make it out for.

16 Q This time he said nothing, is that correct?

17 A No.

18 Q Did he tell you what to make it out for?

19 A Yes, he did.

20 Q What did he tell you to make it out for?

21 A For whichever amount is in the checkbook, 24,000
22 something.

23 Q Did you have any further conversation?

24 A I don't recall.

25 Q You gave him -- you then went to the bank and

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Rosenblatt - cross

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gave him the cash from the check -- not the government check but the check that you had written out for \$24,200?

A I went to the bank with him. We went to Mr. Rankel. That's what happened on every occasion, if he was present with me. We went to Mr. Rankel. Mr. Rankel said we should sit on the side there and wait. He has to gather the money. He gathered the money and then called us into the conference room in the back. He counted out the money and handed it to Morris Brooks.

Q Did you have any conversation with Morris Brooks at that time or directly after that time relevant to this transaction?

A I don't recollect.

Q That is the sum and substance of that transaction? Do you remember anything more about it?

A As far as I remember, I don't recollect anything significant.

Q So that on this occasion that transaction with the check in the bank is the sum and substance of what happened to your recollection, is that correct?

A That's correct.

Q Now, at any time in the Fall of 1974 or from early 1975, did you tell Mr. Brooks that he should not bring Mr. Hardoon -- use Mr. Hardoon in any way in

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Rosenblatt - cross

connection with these checks?

A No, that was false.

Q Did you have any conversation with him relevant to Mr. Hardoon and the checks in any way?

A I don't recollect.

Q Now, again, at the end of 1974 or the beginning of 1975, did you have any conversation with Mr. Hardoon?

A No, I did not.

Q So that Mr. Hardoon's testimony yesterday as to his conversation with you is false?

A That's correct.

Q You now have in front of you Government's Exhibit 13, is that correct?

A That's correct.

Q And that is another government check?

A A check for \$32,000.

Q Made out to H. L. Dalis?

A H. L. Dalis.

Q Now, tell the jury the conversation that you had with Mr. Brooks in relation to that check.

A The conversation was insignificant.

Q Don't characterize the conversation. Tell the jury what the conversation was.

A He called me that he had a check and if I would

jpjb

Rosenblatt - cross

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do him a favor and help him cash it. I said I would be glad to. The check was brought to me or he brought it to me and we went to the bank to deposit it. After three days, he came to me. I issued a check from the Rabbinical College of Queens to Mr. Brooks.

Q That was a check for \$31,000?

A \$31,000.

Q Any further conversation of any type with Mr. Brooks in relation to this check?

A I don't recollect anything.

Q You remember nothing more, that's the sum and substance of it?

A Yes.

Q The depositing of the \$32,000 check and the issuing of the \$31,000 check is the sum and substance of that transaction, is that correct?

A That's correct.

Q No further conversations, no further dealings in relation to that check?

A No.

Q You now have Government's Exhibit 14 in front of you, is that correct?

A That's correct.

Q That is a government check?

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Rosenblatt - cross

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A Yes.

Q Who is it made out for?

A H. L. Dalis.

Q How much?

A \$24,600.

Q Would you describe to the jury the conversation that you had with Mr. Brooks in relation to that check?

A He called me and asked me if I can do him a favor and cash the check and I agreed. We went to the bank. We deposited into the bank account of the Rabbinical College of Queens. Three days later when it cleared, he came to me and as I was ready to make out the check, I waited for him to tell me what to make it out for. He said nothing. So, I made it out to the same amount that was deposited, \$24,600.

Q That is the sum and substance of that transaction?

A No, it isn't.

Q It is not?

A It is not.

Q Would you continue with it?

A After the check was written, he said, oh, you should have made it out less because I want the college to have something from it. So since it was made out, already, he said let's withdraw it as it is and I'll give

jpjb

Rosenblatt - cross

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you the money in cash.

Q How much money did he give you in cash?

A About \$1,000.

Q That's the money that you deposited in the safety deposit box?

A Yes, for the charity fund.

Q Of course, for the charity fund.

MR. GOLDMAN: Objection to that, your Honor.

THE COURT: Yes.

Q That is the sum and substance of that transaction?

A As far as I remember.

Q I show you Government Exhibit 15. Is that the check that you made out to Morris Brooks at that time?

A Yes, it is.

(Continued on next page.)

A.AM

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Rosenblatt - cross

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Q And it is from that which he gave you the thousand dollars in cash, is that correct?

A That's correct.

Q And that was the part of the transaction which you just described?

A Yes, it is.

Q Approximately what date did that take place; do you see the date on the check.

A The date is May 2nd. The date on the check that we -- the check of the Rabbinical College of Queens is May 2, 1975.

Q I show you Government's Exhibits 16 and 17, two official checks of the Chase Manhattan Bank, made out to Morris Brooks, also on May 2nd, isn't it, for \$3,000 and for \$1100, is that correct?

A That's correct.

Q Were you present during any of that transaction?

A I don't recall.

Q You recall nothing about Mr. Brooks' receiving official checks on that day?

MR. GOLDMAN: Objection, your Honor. Mr. MacBeth is implying it's a different transaction. Mr. Rankel was in there saying that he gave part cash and part in checks.

1 bsjb

Rosenblatt - cross

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2 MR. MacBETH: I'm not implying anything, your
3 Honor. I'm asking the witness whether he remembers any-
4 thing about Mr. Brooks receiving the checks on that day.

5 MR. GOLDMAN: He said "that transaction," which
6 was to imply that it was different than --

7 MR. MacBETH: I was not implying anything.

8 THE COURT: Proceed.

9 A I'm not familiar with these checks that were
10 issued from Chase Bank.

11 Q You weren't familiar with any of the initial
12 checks that were issued?

13 A No. In the coming transaction I was familiar.

14 Q In the next transaction?

15 A Right.

16 Q What happened in the next transaction?

17 A The next transaction, the check was -- do you
18 have the government exhibit?

19 Q These are the last two government checks.

20 A The next -- the Government Exhibit 24, check
21 made out to H.L. Dalis, \$38,500, dated July 14, 1975.

22 Again, Mr. Brooks called me and asked me if we
23 can help him, and we agreed. We deposited it in the ac-
24 count of the Rabbinical College, but at the last trans-
25 action Mr. Rankel at the bank asked us if we can please

1 bsjb

Rosenblatt - cross

2 issue smaller checks because they didn't have that much
3 money available.

4 So at this transaction where the deposit was
5 38,500, I brought the checkbook to the bank and Mr. Rankel
6 told us exactly how to make out the three checks, how to
7 break it down.

8 These are the checks that we issued to Mr.
9 Brooks.

10 Q You told me there was something to do with an
11 official check in connection with that. What is the
12 connection in that transaction with an official check?

13 A I'm not sure. I don't know how the official
14 check worked. I'm sorry.

15 Q You don't know how the official checks worked?

16 A No. I think that Mr. Brooks -- I'm not really
17 sure so I better not say. This is something from the
18 bank. This has to do with the bank and Mr. Brooks, really;
19 nothing to do with me.

20 Q Let us return to the transaction on the 2nd of
21 May which involved those two official checks, Government's
22 16 and 17, on the basis of the check that's Government's
23 14, H.L. Dalis for April 28th, is that correct?

24 A Yes.

25 Q Now, I show you Government's 18. Do you recognize

1 bsjb

2 that?

3 A The checks that were issued from Chase Manhattan
4 Bank to Morris Brooks, I don't know anything about.

5 Q This is an official check to Morris Brooks for
6 \$8500.

7 A Yes.

8 Q Look at the back of the check. Is that your
9 signature?

10 A Yes, it is.

11 Q Do you recollect anything about that check?

12 A I really don't recollect anything about this,
13 unless the fact that --

14 Q If you don't recollect it, don't tell us any-
15 thing about it.

16 A Okay.

17 Q I show you Government's Exhibits 36, 37 and 38.

18 A Yes.

19 Q Those have been identified by Mr. Rankel as
20 carbon copies of the three official checks issued on the
21 2nd of May to Morris Brooks, is that correct?

22 A That's correct.

23 Q And what is the notation on each one of them
24 after the line that says "cash"?

25 A Rabbi Rosenblatt.

bsjb

Rosenblatt - cross

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1 Q Do you have any explanation how your name is on
2 there; did you see Mr. Rankel write your name on it?

3 A I'm not sure what this is exactly. But if it has
4 to do --

5 Q Did you have any conversation with Mr. Rankel --
6 MR. GOLDMAN: Your Honor, may the witness be
7 permitted to finish the answer.

8 THE COURT: Yes.

9 A All these checks are issued from Chase Manhattan
10 Bank to Morris Brooks. It could be I just endorsed it to
11 okay Mr. Brooks' signature for him to receive cash for it,
12 but nothing more. I have nothing to do with these checks.

13 Q I show you Government's Exhibits 21, 22, 23, 26,
14 25, 27. Have you had an opportunity to look at them?

15 A Yes.

16 Q Are they all checks, copies of checks which you
17 signed that are payable to Morris Brooks?

18 A Yes, they are.

19 Q Are they in fact the checks that you and Mr.
20 Brooks cashed at the Chase Manhattan Bank?

21 A I issued them to Mr. Morris Brooks and he cashed
22 them, yes.

23 Q You went to the bank together in most instances
24 and cashed them, is that correct?
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Rosenblatt - cross

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A Yes.

Q Have you looked at the copy of the reverse side of those checks?

A Is that on this exhibit?

Q It's the second page of each exhibit.

A Yes.

Q Have you done that for all the checks?

A I wrote "okay to cash, Rabbi Rosenblatt," yes.

Q Now, with all those checks, it's the case, isn't it, that they are triple endorsed on the back, they are first endorsed Morris Brooks, then Ely or Elyakim Rosenblatt, and Morris Brooks --

A Right.

Q -- and frequently, perhaps in all cases, under your name you have written "okay to cash." Is that correct?

A That's correct.

Q I direct your attention again to Government's Exhibit 18, the official check of May 2nd to Morris Brooks, and direct your attention to the back of that check.

What is on the back of that check?

A Morris Brooks, and Rabbi E.G. Rosenblatt.

Q That check is not triple endorsed, is it?

A No, it isn't.

1 bsjb

Rosenblatt - cross

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2 Q And there is nothing on it saying "okay to
3 cash," is there?

4 A No, there isn't.

5 Q Does that refresh your recollection any further
6 as to your obtaining that check?

7 A No. But it refreshes my recollection to the
8 Rabbinical College check. The reason that it was triple
9 endorsed is because that's what Mr. Rankel said we should
10 do.

11 Q Let us return to the Frank P. Conley check for
12 \$41,500, Government's Exhibit 19, which you have in front
13 of you, is that correct?

14 A That's correct.

15 Q Now, starting again with that transaction, will
16 you describe the first conversation that you had with Mr.
17 Brooks in relation to that transaction?

18 A Mr. Morris Brooks called me up and said he has
19 a check, if we could help him out, he could bring it
20 over.

21 I said, yes. He brought it over. We went
22 together to Chase Manhattan Bank, deposited it, three
23 days later he came back and I took the checkbook to the
24 bank, because Mr. Rankel wanted us to break it down, and
25 Mr. Rankel told us exactly how to make out the three

1 bsjb

Rosenblatt - cross

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2 checks.

3 Q And what happened after you made out the three
4 checks?

5 A After we made out the three checks, we went to
6 the back room and to the conference room with Mr. Rankel,
7 and he counted out the money and handed it to Morris
8 Brooks.

9 Q He handed Morris Brooks all the money on that
10 day?

11 A All the money? No.

12 Q On the check.

13 A The money for that day.

14 Q What was the money for that day?

15 A Whatever the exhibit says. I don't know which
16 one that is. I think that's the one that says 17,350.

17 Q Government's Exhibit 21?

A Yes.

19 Q What happened after Mr. Rankel had counted out
20 the 17,350?

21 A We left.

22 Q He left?

23 A No.

24 Q Did you say "we left"?

25 A We all left. Mr. Rankel escorted us out of the

1 bsjb

Rosenblatt - cross

2 vault room and we left the bank.

3 ? What happened after you and Mr. Brooks had left
4 the bank?

5 A Well, I took him to the station, because he had
6 to go to work, so I took him with my car to the station.
7 I'm not sure, he gave us about a thousand dollars on this
8 entire transaction. I'm not sure if he gave it to us that
9 day or after -- after the third day.

10 Q Anything else that you remember about that day?

11 A That's as far as I recall.

12 Q So on that day you and he went to the bank, you
13 took out the checkbook --

14 A Mr. Rankel told us how to make out the checks.

15 Q And you sat there and wrote it in in the check-
16 book?

17 A Right in his presence.

18 Q And then you went into the back room --

19 A No. We waited -- we waited until Mr. Rankel
20 , could gather the money and then we went into the conference
21 room. He counted it out and handed the money to Morris
22 Brooks.

23 Q And you left and you drove Brooks to the station?

24 A Yes.

25 Q And that was the end of your business with Brooks

bsjb

Rosenblatt - cross

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2 that day, is that correct?

3 A That's correct.

4 Q That was August 5th, is that correct?

5 A Yes, that's correct.

6 Q I show you Government's Exhibit 20. Can you
7 identify that?

8 A That's a check made out from Mr. Rankel, Chase
9 Manhattan Bank, to Morris Brooks for \$2,350.

10 (Continued on next page.)
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bsb-1

Rosenblatt-cross

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Q What is the date on it?

A August 5, 1975.

Q You didn't remember anything about that check?

A No, I don't.

Q I show you GovernmentExhibit 39.

A Yes.

Q Can you identify Government Exhibit 39?

A Yes.

Q What is it?

A A copy of a check, official check, made out by the Chase Manhattan to Morris Brooks for \$2350, dated August 5.

Q Is it clearly a carbon copy of the check you were just looking at?

A Yes, it is.

Q What does it say on the line after "cash"?

A "Rabbi Rosenblatt."

Q Didyou have any conversation with Mr. Rankel in relation to that check?

A I don't recollect, and I don't see my signature on the back of it, on the backof the check.

Q You recollect no conversation?

A No.

Q What happened in the days following August 5?

bsb-2

Rosenblatt-cross

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2 A Again, Mr. Brooks came and -- the next one
3 was August 6. Again he came and he took the check, perhaps
4 I went with him, I am not certain, because the check was
5 already made out to him, and if I was with him, we went to the
6 conference room -- the same thing.

7 Q On August 6 you obtained how much money?

8 A On August 6, \$12,000.

9 Q Did you have any further conversation with Mr.
10 Brooks on that day?

11 A I don't recollect.

12 Q Nothing further at all on August 6?

13 A I don't remember.

14 Q What happened after that?

15 A There was one more check for August 7, so
16 apparently he came back and perhaps I went with him or he
17 went himself, I am not certain, and cashed the last check.

18 Q Any further discussion with Mr. Brooks that day?

19 A I don't recollect any.

20 Q So that on three separate days you went with
21 Mr. Brooks or perhaps he went alone --

22 A I don't remember -- right.

23 Q -- received the cash, gave him a check, and
24 then some time in that period, August 5 to August 8, he
25 presented you with a thousand dollars, is that correct?

bsb-3

Rosenblatt-cross

1 A Right. I am not even certain -- on the first
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3 day I said I took him to the station. I am not certain.
4 On one of these days I probably took him to the station.
5 I am not sure if he was going to the station on that day,
6 but whenever he was going and he asked me I took him.
7 Perhaps he went home after those occasions, I don't
8 recollect.

9 Q You have Government Exhibit 24 in front of you,
10 is that correct?

11 A Yes.

12 Q That is a Government check --

13 A Made out to H.L.Dalis, \$38,500, dated July
14 14, 1975.

15 Q Do you recall any discussion that you had with
16 Mr. Brooks about that check?

17 A I think we mentioned before.

18 Q Describe the conversation you had with him,
19 when and where it was.

20 A This again was the first check after Mr. Rankel
21 had said that we should break it down. We made the deposit.
22 When it came the time to withdraw it, we went to Mr.
23 Rankel and he told us how to fill out the three checks.

24 Q What happened after he told you how to fill out
25 the three checks?

bsb-4

Rosenblatt-cross

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2 A I filled it out.

3 Q In these cases, and I think this is the third
4 one you have described, isn't it, Mr. Rankel on each
5 occasion told you how much to fill out the checks for?

6 A That is correct.

7 Q Could you describe that conversation that you
8 had with Mr. Rankel, how did it come about that he told you
9 what amounts to fill the checks out in?

10 A At the previous transaction, which was a Govern-
11 ment check of 26,000 -- \$24,600, Government Expenditure,
12 he told us that if there is to be any future transactions,
13 if we can please not withdraw so much money from the bank
14 at once. So when it came the time to issue checks to
15 Morris Brooks for this \$38,500 check, we went to Mr. Rankel
16 and we asked Mr. Rankel how he would want the checks to be
17 filled out.

18 Q Will you continue on with what happened on the
19 day that you were in the bank and wrote out the checks
20 as Mr. Rankel instructed you to? I take it that would be
21 August 20, 1975, is that correct?

22 A Yes. He told us to make out the checks to --
23 I am not sure, is this the check that goes with this one,
24 \$38,500? The first check was \$14,500, for that check?

25 Q You know the checks better than I do.

1 bsb-5

Rosenblatt-cross

2 A I don't. He told us to make out the three
3 checks as he said. I don't know which goes on which.

4 Q What happened following that?

5 A What happened following that? The one check
6 was good for that same day, so we went into the conference
7 room of the bank and he counted out the money and handed it
8 out to Morris Brooks, whatever that first check was.

9 Q What happened after that?

10 A He escorted us out of the vault room where the
11 conference room is, and we left the bank.

12 Q After that?

13 A I am not sure -- if Morris Brooks wanted to go
14 to the station, I took him with my car. If he wanted to
15 go elsewhere he went on his own.

16 Q Any conversation with Morris Brooks that day?

17 A I don't remember any specific conversation, but
18 I just mentioned already that the sum total of the three
19 checks, he gave us a thousand dollars in cash.

20 Q What happened after that?

21 A What do you mean, that day?

22 Q That day, the next day, the next time that you
23 had any dealings with anyone relative to these checks?

24 A The next day the next check was due, and he
25 probably came back and possibly I went with him, I don't

bsb-6 Rosenblatt-cross

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2 recollect, and he cashed the check. We went to the -- if I
3 was there with him, he went to the conference room and Mr.
4 Rankel counted out the money and handed it to him.

5 Q Any further conversation with him that day?

6 A No, not that I recollect.

7 Q Was that the final transaction that you had in
8 relation to these checks?

9 A There was one more check, so he came back the
10 next day.

11 Q I don't want to be too technical about this,
12 but in fact aren't two of the checks dated August 20 and
13 one of them August 21?

14 A I am not sure. It could be that this is August
15 19, because there is no date on here. It was just
16 stamped by the bank. I am not sure if they stamped it
17 the same day that we had the transaction. This must have
18 been --

19 Q So this may well -- the first transaction may
20 well have been on August 19 and one on August 20, one on
21 August 21?

22 A Possibly.

23 Q And assuming that there were three transactions
24 rather than two, was there any further conversation at the
25 time of the third transaction?

bsb-7

Rosenblatt-cross

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A Not that I recollect.

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Q And when you finished that transaction, did

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you have any further discussions throughout the following

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year with Morris Brooks as to these checks?

6

A Not that I recollect.

7

Q So that it is your testimony that on the first

8

occasion that Brooks came to you he told you the word

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"incorporated" was missing from a check made out to Gloria

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G. Brown, a check made out to Sara Dudley Brown?

11

A I am not sure. I mentioned before, I am not

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sure if he told it to me at the first or second occasion,

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but at one of those occasions he told me the story of

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"incorporated."

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Q That is the only explanation that you recollect

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that he ever offered as to where these checks came from or

17

anything whatsoever beyond saying that they were good

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Government checks?

19

A That is correct.

20

Q And you do not recollect ever asking him any

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question --

22

A That is correct.

23

Q -- about these checks?

24

A That is correct.

25

Q You simply continued to cash the checks and

bsb-8

Rosenblatt-cross

371

1 bsb-8 Rosenblatt-cross 371
2 receive \$1000 per check on the last checks, is that
3 correct?

4 A That is correct.

5 MR. GOLDMAN: Objection, your Honor. It was
6 \$1000 over three checks, or some such.

7 MR. MACBETH: On the last checks, those are
8 the ones I am referring to.

9 A That is correct.

10 Q And you put that \$1000 into a safety deposit
11 box that was held in the bank records in your personal
12 bank, is that correct?

13 A That is correct.

14 Q Never any explanation from Mr. Brooks as to why
15 he came to you with these checks?

16 MR. GOLDMAN: Objection, your Honor. Argumentative

17 MR. MACBETH: I am simply asking whether that
18 kind of conversation ever took place.

19 THE COURT: Overruled.

20 Q Never any explanation from Mr. Brooks as to why
21 he came to you with these checks?

22 A Why he came to me? No.

23 Q Now, you have stated that the Rabbinical College
24 of Queens is a charitable institution under the Federal
25 Revenue laws, is that correct?

1 bsb-9

Rosenblatt-cross

2 A That is correct.

3 Q Didyou ever issue to Mr.Brooks any receipt --

4 A No, we didn't.

5 Q And Mr.Brooks gave you, by your own testimony,

6 in excess of \$3000, is that correct?

7 A That is correct.

8 Q \$3000 on the last three checks alone?

9 A Yes.

10 Q How many contributors does the Rabbinical
11 College of Queens have that in the course of a year have
12 given it more than\$3000?13 MR.GOLDMAN: Objection,your Honor. The
14 Government has never suggested, nor has the Rabbi ever
15 suggested, that he was issuing receipts so people can use
16 them for charitable contributions, this is wholly irrelevant.

17 THE COURT: Let me hear the question.

18 (Question read.)

19 THE COURT: What is the objection?

20 MR. GOLDMAN: There is no contention by the
21 Government that the Rabbi issued receipts so that anybody
22 can use these as contributions or anything of that nature.
23 This is a wholly irrelevant issue.

24 MR. MACBETH: Your Honor --

25 THE COURT: Overruled.

bsb-10

Rosenblatt-cross

Q You may answer the question.

A What was that?

MR. MACBETH: Can the reporter reread the question?

(Question read.)

THE WITNESS: I am not certain.

Q Could you give the jury an estimate?

A No, I can't.

Q You can't give it an estimate at all?

A No.

Q When the Rabbinical College of Queens receives contributions, gifts of money, what is your practice with regard to that money, what do you do with it?

A When people contribute money?

Q When people contribute money.

A It is deposited into the account.

(continued on next page.)

jpb-1 Rosenblatt-cross

Q And which account is that, the Rabbinical College account at the Chase Manhattan Bank in Kew Gardens?

A Yes.

Q Mr. Rosenblatt, what are the terms on which you have your ten or so bank accounts with the Chase Manhattan Bank, and by that, I mean, is there a monthly charge for the bank account and so on?

A Yes, there is.

Q How much does that run to?

A I am not certain.

Q Well, as an average matter or estimate, can you tell the jury approximately what it is?

A I have no idea of the details of the office.

THE COURT: I can't hear you.

THE WITNESS: I have no idea on the details of the day-to-day workings of the office on the checkbook of the finances that is paid to the bank, I don't have any idea.

Q You are the manager of the Rabbinical College of Queens and you are the sole signatory on its bank account?

A Right, right. The secretary or the secretaries --

Q YOU have answered the question, thank you very

1 jpb-2

Rosenblatt-cross

2 much.

3 From y our own personal experience, how much
4 does the bank charge on the average for a checking account?

5 MR. GOLDMAN: Objection, your Honor, it is
6 irrelevant. The witness has stated he doesn't know and
7 now he is being qualified as an expert on banking procedures.

8 MR. MACBETH: I am asking for his personal
9 experience with respect to the story --

10 MR. GOLDMAN: Objection to the use of the word
11 "story."

12 THE COURT: Yes, sustained.

13 A My secretary is the one that takes care of my
14 personal bank account too, so I don't know how it works.

15 Q You don't have any idea what it costs to keep
16 a checking account?

17 A No, I don't.

18 Q Or to run a checking account?

19 A No, I don't.

20 Q You wouldn't know whether the bank on a check
21 charges you a dollar to deposit the check, or cash it
22 or whether it charges you five, ten per cent of the check?

23 A I am not familiar with that.

24 Q Have you ever heard of a bank charging a thousa
25 dollars for a check?

jpb-3

osenblatt-cross

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2 MR. GOLDMAN: Objection, your Honor.

3 THE COURT: What is the objection?

4 MR. GOLDMAN: The objection is Mr. Macbeth
5 wants to sum up. If Mr. Macbeth wants to sum up, there is
6 an appropriate time. What the bank does or doesn't do
7 or what this gentlemen did or did not do, the facts are
8 what happened in this case. If he wants to get argumenta-
9 tive with the witness and suggest that it was a greater
10 charge than the bank might make, that is argumentative, your
11 Honor.

12 MR. MACBETH: I am probing his knowledge with
13 respect to the testimony he has already given.

14 MR. GOLDMAN: He has already done that, your
15 Honor.

16 THE COURT: Is the question has he ever heard
17 of it whether the bank charges for it?

18 MR. MACBETH: That is correct.

19 THE COURT: He can answer it.

20 A I know the bank has charges but I don't know
21 specifics.

22 Q Rabbi Rosenblatt, do you know what a check
23 casher is?

24 A Check casher?

25 Q Yes.

1 jpb-4

Rosenblatt-cross

2 A Yes.

3 Q What is a check casher?

4 A Somebody who cashes a check.

5 Q Do you know what commercial check cashing estab-
6 lishments are?

7 A Yes.

8 Q They do as a regular course of business the
9 cashing of checks, is that correct?

10 A Yes.

11 Q Do you have any familiarity with the operation
12 of check cashing establishments, has anyone known to
13 you ever cashed a check at such an establishment?

14 A I have no familiarity.

15 Q Do you have any idea what a check cashing estab-
16 lishment charges for the cashing of a check?

17 A I have no idea.

18 Q You are total^{ly} ignorant of the way in which
19 checks are cashed, is that correct?

20 A That is correct.

21 Q Your principal interest is in the schools and
22 synagogue that you run, is that correct?

23 A That is correct.

24 Q And you are interested for that reason to
25 assure that they get the best contributions they can and

1 jpb-5 Rosenblatt-cross

2 they are well taken care of, is that correct?

3 A That is correct.

4 Q Now, Rabbi Rosenblatt, you deposited the
5 \$3000 that you say Mr. Brooks gave you into the safe deposit
6 box, is that correct?

7 A That is correct.

8 Q And that was for a charity fund, is that correct?

9 A That is correct.

10 Q Did that cash in the safe deposit box earn any
11 interest from the bank?

12 MR. GOLDMAN: Objection. I was precluded from
13 Mr. Macbeth's cross-examination to go into that, the
14 kinds of uses, and he objected to it and the objection was
15 sustained. He specifically objected and I was stopped
16 from going into the uses of that money and why it was
17 maintained in that way or any way else. I object to the
18 question.

19 MR. MACBETH: Mr. Goldman was certainly allowed
20 to go into how it was maintained. I am not going into its
21 uses. It was he that brought out that this was a charity
22 fund of the safe deposit box.

23 MR. GOLDMAN: Anything to the use of money or
24 the reasons it was there or there, this, that form, or why
25 in that category, I was precluded from asking. I don't

1 jpb-6

Rosenblatt-cross

2 think Mr. Macbeth from sly innuendo should be allowed to make
3 an innuendo when he objected to having the facts laid out.

4 MR. MACBETH: I am simply going into how those
5 funds were maintained.

6 THE COURT: I don't know what you mean by
7 maintained.

8 MR. MACBETH: Was it an interest-bearing account.

9 THE COURT: It was in the safe deposit box.

10 MR. MACBETH: I am asking whether there was any
11 way in which interest was earned in that safe deposit
12 box.

13 MR. GOLDMAN: I will stipulate to that.

14 THE COURT: You can ask him that question:

15 A There was no interest in the safe deposit box
16 but it was there because it had to be --

17 MR. MACBETH: Do not give us any further explanation.
18 tion.

19 MR. GOLDMAN: He doesn't want any further explanation.
20 tion.

21 THE COURT: Just a minute, gentlemen.

22 (Pause.)

23 THE COURT: We will take a recess; everybody
24 remained seated.

25 (Recess.)

jpb-7

Rosenblatt-cross

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THE COURT: Let's proceed.

BY MR. MACBETH:

Q Rabbi Rosenblatt, who was it in fact that made up the deposit tickets for these checks that went into, the first one into your personal account and the others into the account of the Rabbinical College of Queens?

A If you have a copy of them, I probably could see if it is my handwriting.

Q I show you Government Exhibits 30 through 33, and Government Exhibit 43.

A Yes, these are my handwriting.

Q So that you were familiar with the details of the checking account to the extent of making up the deposit ticket?

A How to make the deposit ticket, yes.

Q Now, let's turn back for a moment to the character of these checks. It is your testimony that there were times when Mr. Brooks went to the bank with checks which you had written to him on the Rabbinical College account and that Mr. Brooks went by himself, and cashed those checks, to the bank?

A I didn't testify to that.

Q You didn't. That every time that Brooks cashed those checks you were with him?

A I don't recollect. I was with him most of the time.

JCB. AM

1 jpjb

Rosenblatt - cross

2 Q So there were some times when Brooks was alone?

3 A I don't think so. But it could be that I was
4 alone sometimes.5 Q Now, turning your attention again to the last
6 series of checks in August that were cashed on successive
7 days, were those checks all drawn up at one time in the
8 bank or were they written out at separate times and you
9 and Brooks together came in to cash them?10 A They were written out, the amounts were filled
11 in at the same time as Mr. Rankel told us. But they were
12 not signed until they were actually to be withdrawn.13 Q Now, before July of 1974, did you from time to
14 time either personally or through David Hardoon send
15 envelopes to Morris Brooks to have him mail in the
16 Post Office?

17 A Yes, I did.

18 Q How frequently did you do that?

19 A Very infrequently.

20 Q What did you say to Mr. Brooks on those occasions,
21 what did you ask him to do?22 A Well, I knew he worked in the Post Office and
23 if he would mail it, I would mail it, it would get there
24 quicker.

25 Q Just tell us a typical conversation you had with

jpjb

Rosenblatt - cross

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him.

A Many times I didn't have a conversation, I just brought it up to his house and had -- either sent it with Mr. Hardoon and then when I got to know Morris Brooks better -- before Morris Brooks came to me with these checks, I used to send it through Mr. Hardoon. Mr. Hardoon perhaps if you had mail that would go quicker, he knows somebody who works in the Post Office. He didn't even tell me his name in the beginning.

After we got to know Morris Brooks and David Hardoon told me it was Morris Brooks who worked in the Post Office, he's been the one that has been mailing the letters for me, I dealt directly with Morris Brooks and I just called up. If he was home, I just left it at home with his children to mail for me the next day.

Q That started in 1971, '72?

A I don't recollect how much back.

Q In that general period?

A It was very infrequent.

Q Infrequent or not infrequent, was that the period in 1971, '72?

A I'm not sure exactly how much back it was.

Q Now, you have testified that you knew Morris Brooks approximately 25 years ago out of a religious high

1 jpjb

Rosenblatt - cross

2 school, is that correct?

3 A Yes.

4 Q From time to time in the period before July
5 1974 that is the first through Mr. Hardoon or then through
6 contact with Brooks over the phone or through his children,
7 Brooks would take mail for you into Manhattan to be mailed?

8 A Right.

9 Q And you of course knew that Brooks worked in
10 Manhattan?

11 A Yes.

12 Q And obviously you knew he worked in the Post
13 Office?

14 A Yes.

15 Q You also testified that when you met Morris
16 Brooks in July, 1974, that it required an introduction
17 from David Hardoon to you of Morris Brooks, is that
18 correct?

19 A That's correct.

20 Q Now, did you ever have any conversation with
21 Mr. Rankel in which he ever did anything beside suggesting
22 to you the denominations of the checks that should be
23 written out?

24 A Not that I recall.

25 Q You remember no further conversations in relation

jpjb

Rosenblatt - cross

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1 to these checks to Mr. Rankel?

2 A He may have asked me who this Mr. Morris Brooks
3 was. I said he works in the Post Office, that's all.

4 Q When did you tell Mr. Rankel that?

5 A At one of these occasions.

6 Q Was there anything more to that conversation,
7 any further questions from Mr. Rankel, any further state-
8 ments by you?
9

10 A No further questions from Mr. Rankel and no
11 further statements.

12 Q Now, had you ever stated to anyone following
13 the end of your transactions with Mr. Brooks in August
14 of 1975 on these checks that you did receive 10 per cent
15 of the proceeds of the checks?

16 A Did I ever tell that to anyone?

17 Q Have you ever said that to anyone?

18 A I don't recollect. It wasn't even true.

19 Q But you don't recollect whether or not you ever
20 said it?

21 A I don't recollect.

22 Q You don't recall?

23 A No.

24 Q So that it is perfectly possible that you did
25 say it, is that correct?

Rosenblatt - cross

jpjb

A If it wasn't true, I probably didn't say it.

Q But you don't have a specific recollection of not saying it?

A I can't say under oath that I definitely didn't say it. But I would not say it if it is not true.

Q You can't say under oath that you didn't say it, is that correct, that's what you just testified to?

A I don't recollect speaking to anybody --

Q I asked you a specific question.

MR. GOLDMAN: Objection. The witness has answered it on several occasions.

THE COURT: Well, let him answer this one more time.

A Could you repeat your question?

MR. MacBETH: Would you read the question back.

(Record read.)

Q You cannot state under oath that you did not say to someone, more than one person, after August of 1975, that you received 10 per cent of the face value of these checks?

A I don't recollect discussing it with anybody and telling anybody anything about any 10 per cent, especially if it wasn't so.

Q And can you state under oath that you did not

1 jpjb
2 say to anyone that you had received 10 per cent of the
3 value of these checks?

4 MR. GOLDMAN: Objection. Now it's been asked
5 and answered four times.

6 MR. MacBETH: The witness is not answering the
7 question directly, your Honor. I'm asking whether he
8 can state that under oath. That calls for a yes or no
9 answer. It doesn't call for his recollection but whether
10 or not he can state under oath whether he said that.

11 If he doesn't recollect, his answer has to be
12 no.

13 A If I don't recollect, it could be yes, too, but
14 I don't recollect.

15 MR. MacBETH: No further questions.

16 THE COURT: All right. At this time --

17 MR. GOLDMAN: I have one question, your Honor.

XXX

18 REDIRECT EXAMINATION

19 BY MR. GOLDMAN:

20 Q Rabbi Rosenblatt, just with regard to one ques-
21 tion Mr. MacBeth asked you.

22 Did you ever refer to H.L. Dalis as Dali?

23 A Absolutely not.

24 Q Did you ever in Mr. Hardoon's presence refer to
25 him as Dali or discuss it with him?

Rosenblatt - redirect

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jpjb

A I did not.

MR. GOLDMAN: No further questions.

THE COURT: Anything further?

MR. GOLDMAN: Nothing further.

THE COURT: Thank you, you may come down.

(Witness excused.)

THE COURT: At this time we will recess until 2:15 for lunch. The jury is excused until 2:15. Everyone in the courtroom remain seated until the jurors have left.

(Jury excused from the courtroom.)

THE COURT: Mr. Goldman, do you have any more witnesses?

MR. GOLDMAN: We have three or four more character witnesses.

THE COURT: Does the government plan any rebuttal?

MR. MacBETH: The government may call one or two more witnesses. We are trying to locate them at this time. If we do have them, they will be very brief.

THE COURT: All right. Then there is a possibility that we'd sum up this afternoon, if we have just a few brief witnesses.

So, I'll tell you at this time, unless you have some motions what the court will charge and what it expects

1 jpjb

2 to your request to charge: Any motions at this time?

3 I'm sorry, we haven't quite finished yet.

4 We will recess until 2:15 and after the brief
5 witnesses I will hear the motions and tell you what I
6 intend to charge. But plan to sum up this afternoon.

7 (Luncheon recess.)

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AFTERNOON SESSION

(In open court, jury present.)

THE COURT: All right, Mr. Cooper, do you have another witness?

MR. COOPER: Yes. Mrs. Rosetta Buggs.

ROSETTA BUGGS, called as a witness,
after being first duly affirmed, testified as follows:

DIRECT EXAMINATION

BY MR. COOPER:

Q Mrs. Buggs, could you please try and keep your voice up so that you speak to the last juror?

A Yes, sure, thank you.

Q Mrs. Buggs, how are you employed?

A I am a part time housekeeper. I was full time, but I do part time housekeeping.

Q Do you know Rabbi Elyakim Rosenblatt?

A Yes, I do.

Q How long have you known him?

A Well, a little over 10 years.

Q How did you come to know Rabbi Rosenblatt?

A Well, my first coming to know him was he was --

1 bsjb

Buggs - direct

2 I guess you call it getting a degree. I was invited to his
3 party when he got his degree.

4 Q What kind of degree was that?

5 A Well, we call it a swekah. I don't know what
6 you call it.

7 Q Does that mean the time that he was ordained as
8 a rabbi?

9 A Yes, that's right.

10 Q And that was about 10 years ago?

11 A Yes.

12 Q Have you known him since then?

13 A Yes.

14 Q In what capacity?

15 A He's been my spiritual leader and my dear
16 friend, good friend.

17 Q Are you a member of his congregation?

18 A Yes, I am.

19 Q Does your family know his family?

20 A Yes, my family knows his family, and my nephew
21 and he is like two -- like brothers.

22 Q You know other people who also know Rabbi Rosen-
23 blatt?

24 A Yes, I do.

25 Q Have you had an opportunity to discuss with

1 bsjb

Buggs - direct

2 these other people Rabbi Rosenblatt's reputation for
3 honesty, veracity, truthfulness and morality?

4 A Yes.

5 Q Can you tell us what that reputation is?

6 A Well, his reputation to me is superb. He's one
7 of the best.

8 Q Before we get to that, could you tell us what
9 his reputation is among the people --

10 A It is for honesty, decent, good man, a good
11 leader and a good everything, I would say all around
12 everything.

13 Q Could you tell us now if you have a personal
14 opinion of the traits I mentioned, and if so what that
15 personal opinion is?

16 A Pardon me?

17 Q Could you tell us now what your own personal
18 opinion is of the traits I mentioned as to Rabbi Rosen-
19 blatt?

20 A My personal opinion is that he's superb. He's
21 the best, he's a good leader, he's a good man -- I tell
22 you, in my opinion, he's a good husband, he's a good
23 father, he's a good friend and he's a good spiritual
24 leader; there is no better.

25 Q Mrs. Buggs, you haven't been present for any

1 bsjb Buggs - direct

2 other part of this trial, have you?

3 A No.

4 Q You haven't seen any of the documents or the
5 testimony involved in it, have you?

6 A No, I haven't.

7 MR. MacBETH: No questions, your Honor.

8 THE COURT: Thank you. You may come down.

9 (Witness excused.)

10 THE COURT: Is there another witness?

11 MR. GOLDMAN: Yes, your Honor.

12 Mr. Winet.

XXX 13 S. B A R R Y W I N E T, called as a witness
14 after having been first duly sworn, testified as
15 follows:

XXX 16 DIRECT EXAMINATION

17 BY MR. GOLDMAN:

18 Q Mr. Winet, can you tell us what is your occupa-
19 tion and profession?

20 A I am director of design for a store planning
21 firm.

22 Q Can you tell us, sir, do you know Rabbi Rosen-
23 blatt?

24 A Yes, I do.

25 Q How long have you known him?

1 bsjb

Winet - direct

2 A Approximately 15 years.

3 Q During that 15 years have you had occasion to
4 discuss Rabbi Rosenblatt with anybody, any other persons?

5 A Yes.

6 Q And based upon your conversations with these
7 other persons, can you tell us what is his reputation
8 for honesty, truthfulness and morality?

9 A The Rabbi is known to be of the highest caliber,
10 the most honest person who believes in people, who is
11 trusting, and only sees good in people.

12 Q Sir, have you come to form a personal opinion
13 as to Rabbi Rosenblatt?

14 A I have. I have a very high regard for him as a
15 sincere person, one who believes in people with a child-
16 like naivete; one who can basically only see good and has
17 a very high reputation.

18 Q Incidentally, Mr. Winet, have you been present
19 during any of the testimony?

20 A No, I haven't.

21 Q Have you seen any of the documents or exhibits
22 in this case?

23 A No, I haven't.

24 THE COURT: Questions?

25 MR. MacBETH: No questions.

1 bsjb

Winet - direct

2 THE COURT: Thank you. You may come down.

3 (Witness excused.)

4 THE COURT: Do you have another witness?

5 MR. GOLDMAN: Abraham Friedman.

XXX

6 A B R A H A M F R I E D M A N, called as a

7 witness after being first duly sworn, testified as

8 follows:

XXX

9 DIRECT EXAMINATION

10 BY MR. GOLDMAN:

11 Q Mr. Friedman, do you know Rabbi Rosenblatt?

12 A Yes.

13 Q How many years have you known him?

14 A I know Rabbi Rosenblatt three years.

15 Q During that time have you had occasion to dis-
16 cuss Rabbi Rosenblatt with other people?

17 A Yes.

18 Q And based upon those discussions with other
19 people can you tell the members of the jury what his
20 reputation is for honestly, truthfulness and morality?

21 A First of all, you know, I would like to clear
22 myself, you know, I know Rabbi three years, but I'm close
23 to Rabbi Grossman for the last year and a half, two
24 years, close. Why? Because I was in the school, I be-
25 come a member in the school throughout my son, supposed

bsjb

Friedman - direct

1 to get bar mitzvah'd, and I used to belong to Young
2 Israel of Briarwood, and you know, a Jewish boy, before
3 13 years old you have to be bar mitzvah's, and I tried
4 to contact the school they should teach him the prayers,
5 what it is, which in my life is very important.
6

7 That rabbi from Briarwood, Young Israel, you
8 know, he promised, but he didn't fulfill the promise,
9 after waiting a couple of months I see nothing happened.
10 I made my wife, I says, "Well, it's a school, Grand
11 Central Parkway, you should call up the rabbi and speak
12 with him."

13 She called up, he made an appointment and I came
14 and I spoke to him, I said, "My son will be bar mitzvah'd.
15 I would like you should prepare." "I'll tell you honest,
16 I do not prepare, but I will give you someone who will
17 do it." How much the bar mitzvah cost? He said, well,
18 you speak to the president, you pay later.

19 As a Jew, and as an honest one, I will not be
20 a witness for anybody except for the truth, if it's the
21 truth.

22 After the bar mitzvah I become a member, a mem-
23 ber up until now. He tell me to get involved, you know,
24 I was in the Treasury Department --

25 Q You are talking about Rabbi Rosenblatt?

1 bsjb

Friedman - direct

2 A Yes.

3 Q He was the person who bar mitzvah'd your son?

4 A Yes. I donated books. Being a treasurer, you
5 know, I like charity and I give charity.

6 Q Did you from time to time act as treasurer of
7 the synogogue?

8 A Yes, that's what I say.

9 By asking people, you know, when they pledge
10 to give, I remind them, Rabbi Rosenblatt called up, he say
11 people are old people, sick people, he say, "Don't ask
12 them." I say, Rabbi, you feel that way, I'm a business-
13 man, I say you are a rabbi and I respect you as a rabbi,
14 as an honest person, you give your effort, but me as a
15 businessman, if somebody is pledging he has to pay. I
16 say, if not, I resign.

17 And so help me God, I did.

18 Q In other words, the Rabbi told you not to ask
19 people for money?

20 A Right.

21 Q And have you found him able, in the course of
22 your dealings with him as treasurer, have you found him
23 able to ask people for money?

24 A No. And -- which I'd like to clarify myself --

25 MR. MacBETH: Your Honor, could we turn to the

1 bsjb

Friedman - direct

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2 proper character evidence?

3 THE COURT: Is this witness called as a character
4 witness?5 MR. GOLDMAN: As a character witness, and also
6 specific intents with regard to possibly some of the
7 issues or inferences developed in this trial. It's his
8 own personal opinion and observations which may have a
9 bearing on this case.10 MR. MacBETH: Mr. Rosenblatt's dealings particu-
11 larly outside the matters at issue in this trial are
12 collateral and are not properly before the court or jury
13 in this case.14 The character evidence is perfectly proper, .
15 and I ask Mr. Goldman to turn to that.16 THE COURT: If we can conclude this with a
17 short statement and get to the essence of this witness'
18 testimony, which is the defendant's reputation in the
19 community, there probably would be no objection.

20 BY MR. GOLDMAN:

21 Q Mr. Friedman, two questions: From your observa-
22 tions, what is your opinion of the Rabbi as a businessman?

23 A A very bad one. He cannot run my business.

24 Q And what is your opinion of him as a person?

25 A As a person, he's a very fine person, a very

1 bsjb

Friedman - direct

2 good rabbi, a very learned rabbi, and a very sincere man,
3 honestly.

4 Q Incidentally, Mr. Friedman, you have not been
5 present during any of the proceedings or heard any of
6 the testimony?

7 A No.

8 Q And you have not reviewed the documents or the
9 evidence in the case?

10 A No.

11 MR. GOLDMAN: Thank you very much, sir.

12 THE COURT: Any questions?

13 MR. MacBETH: No questions.

14 THE COURT: Thank you. You may come down.

15 (Witness excused.)

16 (Continued on next page.)
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Hoffman-direct

MR. GOLDMAN: Israel Hoffman.

I S R A E L H O F F M A N, called as a witness
by the defendant, being first duly affirmed,
testified as follows:

DIRECT EXAMINATION

BY MR. GOLDMAN:

Q Mr. Hoffman, do you know Rabbi Rosenblatt?

A Yes, I do.

Q And for how many years do you know him?

A About 25 years.

Q And in the period of 25 years, do you know
other people who know him?

A Oh, yes.

Q And have you had occasion to discuss Rabbi
Rosenblatt with some of these other people?

A At numerous occas-ons.

Q Basedd upn your conversations with these
other people, can you tell the members of the jury what is
his reputation for honesty, truthfulness and morality?

A Actually, it is excellent. I never heard
anything derogatory --

Q Mr. Hoffman, have you come to form a personal
opinion with regard to Rabbi Rosenblatt?

A Well, I hold him as in the top rung.

bsbr 2

Hoffman-direct

400

I mean a person who is dedicated to his community and who is always warm and interested in his friends and the people he is associated with.

MR. GOLDMAN: Thank you very much, sir.

Q Mr. Hoffman, have you been present during any of the testimony in this case?

A No.

Q Have you reviewed any of the documents or exhibits in this case?

A No.

MR. GOLDMAN: Thank you very much, sir.

THE COURT: Any questions?

MR. MACBETH: No questions.

THE COURT: Thank you.

Come down.

(Witness excused.)

MR. COOPER: Seymour Goldberg.

SEYMOUR GOLDBERG, called as a witness
by the defendant, being first duly affirmed,
testified as follows:

DIRECT EXAMINATION

BY MR. COOPER:

Q Mr. Goldberg, you are an ordained rabbi?

A Yes.

1 bsbr 3 Goldberg-direct

2 Q Do you know Rabbi Elyakim Rosenblatt?

3 A Yes, I do.

4 Q For how long have you known him?

5 A I have known him for about 20 years,
6 since we --

7 Q Keep your voice up.

8 A I have known him for 20 years since we have
9 larned together in the Rabbinical College.

10 Q As a result of knowing him for those twenty
11 years, have you had an opportunity to form a personal opinion
12 as to Rabbi Rosenblatt's honesty, morality and integrity?

13 A Yes, I have.

14 Q Could you tell us what that opinion is?

15 A Well, his honesty is boundless, and as far
16 as his -- I know him to be a very kind person towards other
17 people, and his kindness even extends to his judgment of
18 other people.

19 Q Can you tell us if there is anything in
20 your acquaintance with him and your observations of him that
21 leads you to that conclusion?

22 MR. MACBETH: Could we stick to the general
23 character evidence. This has become extremely cumulative.
24 He now has had 15 or 16 of these character witnesses and
25 it seems to me entirely appropriate at this point to

1 bsbr 4 Goldberg-direct

2 simply remain with the witness' opinion and the opinion
3 of the community and not to bring in any more --

4 MR. COOPER: I have one more question.

5 THE COURT: All right.

6 Q Tell us the basis of your opinion.

7 A The basis of my opinion, it is -- I see
8 Rabbi Rosenblatt as a unique individual in that he never
9 sees any evil or hears any evil about any people, and he
10 is just trusting people without ever seeing anything
11 wrong with them, even though the evidence may be the other
12 way. But he just is a trusting person. In fact,
13 I don't know his psychological makeup is such that it is
14 beyond me. He is a unique individual. I really don't .
15 get it, really.

16 Q Have you ever had any specific conversation
17 with him about that?

18 A Yes, I have.

19 MR. MACBETH: Your Honor, I would --

20 THE COURT: Here we are going beyond the
21 question. You said you had one more question.
22 Now we are going into statements from the defendant.

23 MR. COOPER: Thank you.

24 THE COURT: Any cross examination?

25 MR. MACBETH: No cross examination.

1 bsbr 5

2 THE COURT: You may come down.

3 Is there another witness?

4 MR. GOLDMAN: No, your Honor, that is the
5 defendant's case.

6 THE COURT: All right.

7 (Witness excused.)

8 (Continued on next page.)

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1 jpbr 1

a pm 2 THE COURT: At this time we will excuse
3 the jury for a few moments. The jurors may retire to
4 the jury room.

5 (Jury leaves the courtroom.)

6 THE COURT: Does the government have anything
7 further?

8 MR. MACBETH: The government has one
9 rebuttal witness. I was about to jump up. I would like
10 about three minutes with him. He arrived here at about
11 12 minutes past two. Perhaps we can take the requests to
12 charge at this time. I don't think it makes any dif-
13 ference to that witness. We can take that at this break
14 and not have to break with the jury again.

15 THE COURT: Let us bring the jury back and
16 finish with this witness.

17 Do you have the witness here?

18 MR. MACBETH: Yes.

19 (Jury present.)

20 THE COURT: Ladies and gentlemen, the defendant
21 having rested his case, the government now will proceed
22 with its rebuttal case.

23 MR. MACBETH: The government calls Matthew
24 Rankel, your Honor.
25

1 jpbr 2

Rankel-direct

2 M A T T H E W R A N K E L, called as a witness
3 by the government in rebuttal, having been first
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. MACBETH:

7 Q Mr. Rankel, how many accounts are there at your
8 branch of the Chase Manhattan Bank which Mr. Rosenblatt has
9 some hand in the direction or control?

10 A I'd say about ten.

11 Q Now, was there ever any occasion in the course
12 of the dealings with the checks that I questioned you
13 about in which Mr. Rosenblatt --

14 THE COURT: Excuse me. Just a moment.

15 I see one of the jurors attempting to take notes.

16 JUROR NO. 1: I put it away.

17 THE COURT: You may take notes if you wish,
18 but I suggest to you that we have a reporter here who is
19 taking everything down that's being said by all the wit-
20 nesses.

21 JUROR NO. 1: I don't think I will remember
22 everything. I didn't think I could remember anything.

23 THE COURT: That's what I was getting at.

24 The reason we have a reporter to take down everything is
25 when you go to the jury room to deliberate, if you would

1 jpbr 3 Rankel-direct

2 like any of the testimony read back, we could do that.

3 JUROR NO. 1: I can't recall it all in my
4 mind.

5 THE COURT: That's what I'm saying. You may
6 take notes if you wish but it is perhaps better to listen
7 and then, if you desire, we can have any of the testimony
8 that you would like to hear again read back. All right.

9 JUROR NO. 1: Yes.

10 THE COURT: Let us proceed.

11 Q Mr. Rankel, yesterday you testified about a
12 series of checks which involved Mr. Rosenblatt and Mr.
13 Brooks, is that correct?

14 A Right.

15 Q Now, do you remember any time in the course
16 of those transactions in which Mr. Rosenblatt came into
17 the bank and had his checkbook with him and wrote out checks
18 out of the checkbook in front of you?

19 A No, I d not.

20 Q Now, do you remember any occasion in the course
21 of those dealings with Mr. Rosenblatt and Mr. Brooks
22 in which Mr. Rosenblatt came in and after a conversation
23 with you and on your instructions wrote out three separ-
24 ate checks at the same time but had them dated for differ-
25 ent days?

1 jpbr 4 Rankel-direct

2 A No, I do not remember.

3 Q Now, I show you Government's Exhibits 36,
4 37, 38 and 39. Those are carbon copies, are they not, of
5 four physical checks of your branch of the Chase Manhattan
6 Bank?

7 A That is right.

8 Q Do they have your handwriting on them?

9 A They have my initial on them.

10 Q On each one of those, what does it say after
11 the word cash, Mr. Rankel?

12 A Rabbi Rosenblatt.

13 Q Now was Rabbi Rosenblatt present when those
14 official checks were issued?

15 A I would say yes.

16 Q You were present, were you not?

17 A Oh, yes.

18 Q Would you have written Rabbi Rosenblatt if you
19 were not there?

20 A That's my signature on there. I wrote that
21 on there, yes.

22 Q While Rabbi Rosenblatt was standing there?

23 A Right.

24 Q Now, I show you Government's Exhibit 18,
25 an official check bearing your signature for \$8500 to

1 jpbr 5 Rankel-direct

2 Morris Brooks dated May 2nd.

3 I ask you to look at the back of that check.

4 Is that your initial on the back of the check?

5 A That is, yes.

6 Q The back of that check bears the endorsement
7 of Morris Brooks and then an endorsement by Mr. Rosenblatt,
8 is that right?

9 A That is right.

10 Q Does that mean that the funds for that check
11 were issued to Mr. Rosenblatt?

12 A I would say that he received the funds for it.
13 It is endorsed by both of them and Rabbi Rosenblatt
14 got the funds, he got the money.

15 Q Now, in the course of these transactions which
16 you have testified to, do you remember at any time asking
17 Mr. Rosenblatt who Morris Brooks was and having Mr. Rosen-
18 blatt tell you in words or substance that Mr. Brooks worked
19 for the Post Office?

20 A No, I do not.

21 Q Do you remember either half of that conver-
22 sation, did you ever ask Mr. Rosenblatt such a question?

23 A No, I never asked him.

24 Q Did he ever volunteer such information to you?

25 A No, he did not.

1 jpbr 6

Rankel-direct-cross

2 MR. MACBETH: I have no further questions
3 of this witness, your Honor.

4 MR. GOLDMAN: Your Honor, I have one or two
5 questions.

6 CROSS EXAMINATION

7 BY MR. GOLDMAN:

8 Q Mr. Rankel, yesterday I believe you testified
9 with regard to those checks, did you not, that on some
10 occasion the bank would be short of cash to cash a check,
11 so on occasion you would give cash and make up the bal-
12 ance with an official check, that was your testimony?

13 A That is right.

14 Q Mr. Rankel, am I correct that you also testi-
15 fied yesterday that in terms of breaking the checks down in-
16 to smaller amounts that was at your instructions to
17 Rabbi Rosenblatt?

18 A Possibly --

19 Q Not the cashier's checks, with regard to
20 a large check breaking it down into smaller amounts
21 because the bank was -- it was inconvenient for the bank to
22 have that much cash at any one time?

23 A It is possible I may have suggested that.

24 Q Well, if I may have one moment.

25 (Pause.)

jpbr 7

Rankel-cross

Q Did you testify yesterday, sir, that it was difficult for your bank on occasion to have large sums of cash and that you ask the checks to be broken down into smaller amounts?

A There would be times when we would have a shortage of cash but I don't think I would specifically say that he should break it down into a smaller amount beforehand. I mean, I would suggest, possibly that I could order some cash and then he could come in the following day or two days later and he could give me a check for that then.

MR. GOLDMAN: I have no further questions, your Honor.

THE COURT: Anything further?

MR. MACBETH: Nothing further, your Honor.

THE COURT: Thank you, you may come down.

(Witness excused.)

THE COURT: Does the government have another rebuttal witness?

MR. MACBETH: No, the government rests.

THE COURT: All right.

We will excuse the jury at this time.

(Jury leaves the courtroom.)

THE COURT: Any motions at this time?

1 jpbr 8

2 MR. GOLDMAN: Yes, your Honor.

3 At the conclusion of all the evidence,
4 the defense moves that the indictment against Rabbi
5 Rosenblatt be dismissed on the following grounds, your
6 Honor:

7 That while technically at the conclusion of
8 the government's case there might have been a legal
9 sufficiency albeit slim to survive a motion to dismiss
10 on the basis of the lack of prima facie case, there is
11 now at the conclusion of all the evidence, your Honor, a
12 total lack of sufficient credible evidence upon which
13 a jury could reasonably conclude beyond a reasonable
14 doubt that Elyajim Rosenblatt participated in a criminal
15 conspiracy with Morris Brooks. I would note only
16 quickly that the testimony of Mr. Morris Brooks is for all
17 intents and purposes uncorroborated.

18 It is the testimony of a co-conspirator and
19 I mention uncorroborated for the following reason:

20 It is he and he alone that testifies to
21 any conversation with Rabbi Rosenblatt regarding tax
22 evasion, regarding kickbacks, regarding payola, regarding
23 the hiding of money. Not another witness corroborated that
24 testimony and it is that testimony and only that testimony
25 which is the heart of this case, your Honor.

1 jpbr 9

2 Morris Brooks, by his own testimony is a self-
3 confessed liar. A man who admits he will make up a story
4 for the purpose of corrupting and prevailing upon friends.
5 In fact, he even admits the very story regarding tax
6 evasion was a lie told to Rabbi Rosenblatt. That testi-
7 mony has been contradicted by the government's witness and
8 Mr. Hardoon who claims to have been present during the
9 original conversation in which Morris Brooks said the
10 subject of tax evasion arose and the subject of hiding
11 the money arose came up and he says he heard nothing of
12 it.

13 The bank documents do not corroborate Mr. Brooks
14 in and of themselves. The bank documents are straight-
15 forward documents and nothing on their face evidences any
16 irregularity as testified to yesterday by Mr. Rankel. That
17 is the government's case. There was one suggestion made
18 possible yesterday by Mr. Hardoon and some unidentified date
19 in 1974 the Rabbi used the word Dali by saying I used
20 'Dali. By only Mr. Hardoon's testimony he did not know
21 what it meant and it did not seem responsive to what he
22 asked. He could not even testify as to what the
23 rabbi meant. We have strictly the sole, uncorroborated
24 testimony of a self-confessed liar and under those
25 circumstances, your Honor, when coupled with the balance

1 jpbr 10

2 of the evidence in this case, coupled with the inability
3 on cross examination to demonstrate that Rabbi Rosen-
4 blatt did anything other than cash these checks, possibly
5 naivete was his greatest sin and nothing else, and
6 coupled with the greater amount of character testimony
7 which the Court knows is sufficient to create reasonable
8 doubt, that there is insufficient credible evidence upon
9 whi a jury could reasonably find beyond a reasonable
10 doubt that Elyakim Rosenblatt is guilty of the crime charged.

11 (Continued on next page.)
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2 THE COURT: Does the government care to respond?

3 MR. MacBETH: Yes, your Honor ruled yesterday
4 that the government has of course put in a prima facie
5 case through the direct evidence which was adduced yester-
6 day before the court and jury. But what we have had today
7 are two types of testimony. We have had Mr. Rosenblatt's
8 own testimony, which I submit to the court is inherently
9 incredible. A man with ten bank accounts who contends
10 he doesn't even know what the charges are on the bank
11 accounts or how they operate and doesn't make out the
12 deposit tickets. A man in order to protest his own
13 innocence through his testimony is forced, not only to
14 contradict Brooks, his co-conspirator who obviously is
15 the man with whom he has the discussions that relate
16 directly to the substance of the conspiracy, but also
17 to two further witnesses, Mr. Hardoon and Mr. Rankel,
18 neither of which have any kind of animosity or reason
19 or motive to falsify their testimony against Mr. Rosen-
20 blatt.

21 If anything, from the very testimony that was
22 elicited from Mr. Hardoon, he would have an animosity
23 against Mr. Brooks. After all, it was Mr. Brooks who
24 involved his nephew in the theft and in the attempt to
25 deposit and get cash in the other indictment.

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2 I submit, in fact, Mr. Hardoon's testimony is
3 truthful and accurate and what we have from Mr. Rosen-
4 blatt today, a contradiction to that, is nothing more
5 than a fabrication.

6 In addition, there have been a long, long string
7 of character witnesses. As your Honor knows, character
8 witnesses are not familiar with the facts of this case or
9 the testimony that has been presented in this courtroom.
10 They have testified again, and again, of course, as to
11 Mr. Rosenblatt's good reputation in the community.

12 I only emphasize to your Honor that in fact the
13 very crime that Mr. Rosenblatt has committed depends upon
14 having that kind of reputation. What was Brooks' chief
15 problem? It was getting those checks cashed. In order
16 to do it, he had to have someone with a good reputation,
17 someone like a banker like Mr. Rankel would not ask
18 questions, so those checks could pass through the account
19 with no problem.

20 Mr. Rosenblatt, of course, has added some other
21 items in his testimony. There is no question now that he
22 in fact received a very substantial amount of cash out
23 of these arrangements. He took it in cash. He then put
24 it into his personal safety deposit box and he certainly
25 issued no receipts for the charitable organization which

1 jpjb

2 he contends that money was going to.

3 I think that adds to the total picture of the
4 evidence as an admission from the defendant on the stand
5 which in fact supports and buttresses the government's
6 case, though clearly, in a more limited way, than Brooks.
7 I think the testimony we have had from the defense today
8 has in no way moved an inch to overcome the government's
9 prima facie case and has in fact tended to support that
10 case.

11 THE COURT: All right. The motion made by the
12 defendant at the end of the whole case is denied. There
13 is more than the testimony of the government's chief wit-
14 ness, Mr. Brooks, here as I indicated yesterday.

15 There are the exhibits in evidence, consisting
16 of the checks and other bank records which tend to
17 corroborate his testimony. There is the testimony of
18 David Hardoon which similarly corroborates it in many
19 respects.

20 ; So, we are not dealing with the uncorroborated
21 testimony of an accomplice. But, in any event, in the
22 Federal Court, the rule is, if the jury believes beyond
23 a reasonable doubt the uncorroborated testimony of an
24 accomplice, that would be sufficient in and of itself
25 for a conviction.

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2 So, the motion for a judgment of acquittal at
3 the end of the whole case is denied.

4 MR. GOLDMAN: Your Honor, just for the record,
5 may I renew the two other motions made yesterday, one
6 with regard to there was no criminal conspiracy because
7 of the divergent purposes of Mr. Brooks and Rabbi Rosen-
8 blatt and secondly with regard to the lack of venue in
9 this case.

10 THE COURT: Yes. This court rules in the same
11 manner that it did yesterday with respect to those two
12 grounds for judgment of acquittal.

13 Now, with respect to the request to charge,
14 taking the government's requests first. The court ac-
15 cepts the following, request number 1, 2, is rejected.
16 The court of course will charge on the elements of the
17 crime, but the court will add to these elements as set
18 forth here.

19 Request No. 3 is accepted in substance.

20 4, accepted in substance.

21 5, accepted in substance.

22 6, rejected as contrary to United States against
23 Nuccio.

24 7, accepted in substance.

25 8, rejected. The court will of course charge

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2 on willfully and knowingly, but not this particular charge.

3 9, accepted in substance.

4 11, rejected. The court will instruct the jury
5 that the defendant's testimony is to be judged in the same
6 way as any other witness.

7 12, the court will charge on character witnesses
8 but not includ a great deal of the language here, particu-
9 larly the last paragraph or two.

10 13, accepted in substance.

11 14, rejected. The additional request, circum-
12 stantial evidence, unanimous verdict, proof and reasonable
13 doubt, accepted.

14 Now, with respect to the defendant's requests:

15 1 is accepted in substance; 2 in substance, 2B
16 in substance; 2C accepted in substance.

17 3, accepted in substance.

18 4, accepted in substance.

19 5, 6, accepted in substance, except that sen-
20 tence which is followed by footnote 1 and the sentence
21 which immediately precedes that. We discussed that yes-
22 terday, I believe.

23 7 is a matter we had under discussion yesterday,
24 so that will not be accepted. There is another one.

25 No. 2A again, which is accepted in substance.

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2 That is, describe what an agreement is or a conspiracy
3 rather. Just to the crime of conspiracy is an agreement.
4 That's accepted in substance.

5 8, character evidence is accepted.

6 I believe those are all the requests to charge.

7 MR. COOPER: Your Honor, if I may. The 2A you
8 referred to should have been listed as a 7A but there is
9 a 2A which follows 2 which I don't believe you ruled on.

10 THE COURT: 2A, credibility of witnesses --

11 MR. COOPER: Who has previously been convicted
12 of a crime.

13 THE COURT: Yes, I will accept that in substance.
14 Are there any others?

15 MR. MacBETH: Nothing further for the government.

16 MR. COOPER: No, your Honor.

17 THE COURT: Under the prevailing rule, of course,
18 the government will make an opening, followed by a summa-
19 tion by defense counsel with government rebutting.

20 Now, how much time do you require, Mr. MacBeth?

21 MR. MacBETH: I would estimate 20 to 25 minutes,
22 your Honor.

23 THE COURT: And Mr. Goldman?

24 MR. GOLDMAN: I would say something in the
25 neighborhood of an hour, your Honor.

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2 THE COURT: All right.

3 MR. MacBETH: I was referring of course to my
4 opening in chief. I would like something additional in
5 response, particularly if we have an hour in between.

6 THE COURT: Suppose I suggest that at the moment
7 each side limit itself to an hour. A trial of this case
8 has only been two days, is it?

9 MR. MacBETH: That's correct.

10 THE COURT: Two and a half days. We started
11 the testimony Tuesday morning, if I remember correctly.
12 It has been a two and a half day trial. I think an hour
13 for summations is sufficient.

14 We will take a five-minute recess after which
15 we will bring in the jury and the government will commence
16 with its summations.

17 (Recess.)

18 (In open court, jury not present.)

19 THE COURT: Gentlemen, before we bring in the jury.
20 , with respect to the request to charge and the defendant's
21 7B which followed a misnumbering of 7A, you remember I
22 indicated there was a 2A which seemed to duplicate a
23 numbering previously.

24 Now, with respect to what follows 7B, that is a
25 part of the discussion we had yesterday in this matter

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2 about whether there is a meeting of the minds here. ' And '
3 so, that is rejected, to clarify the record.

4 All right, are we ready to proceed.

5 MR. MacBETH: The government is ready, your Honor.

6 THE COURT: Bring in the jury, please.

7 (Continued on next page.)
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SA vs
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(Jury present.)

THE COURT: Ladies and gentlemen, as you know, all of the evidence in this case is now in, and the parties on both sides have rested their case.

As I advised you when the trial commenced, at this point the lawyers will have an opportunity to sum up.

In that connection, I want to remind you about something I told you earlier also, and that is that statements made by lawyers aren't evidence. The evidence in this case is now in and again, the evidence in this case consists of three things:

It consists of the testimony which you hear from the witnesses who took the witness stand right here before you, so that you could hear them and see them and observe their manner and demeanor while testifying on the witness stand.

The evidence in this case also consists of those exhibits which were actually received into evidence, that is, the checks and the bank records and other documents which were actually received in evidence.

Then the evidence in this case consists of any stipulations or agreements which the lawyers entered into with respect to certain facts.

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2 And you may recall when the trial commenced
3 the Government's counsel, Mr. MacBeth, read a stipulation
4 as to certain facts which the defense counsel agreed to.

5 Those three things constitute the evidence in
6 the case.

7 What is going to happen now is that the lawyers
8 are going to give you their views of what they believe
9 the evidence shows or does not show.

10 In that connection I want to remind you also
11 that it is your recollection of what a witness said which
12 governs, what some other document shows which governs,
13 and not the lawyers.

14 The lawyers, being human, like all of us,
15 sometimes inadvertently misstate the testimony or some other
16 part of the record. If that should occur, I want to remind
17 you, it is your recollection which governs and not the
18 lawyers.

19 Now, there is another problem which we sometimes
20 have during summations, which I want to bring to your atten-
21 tion, and that is a problem which arises again from the
22 fact that lawyers are human beings. The lawyers during
23 the summations sometimes tend to veer into the province
24 of the Court, that is, they try to tell the jurors what
25 the law is or argue the law to the jurors, and then there

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1 is an objection from opposing counsel and then there
2 is a colloquy between the Court and the lawyers.
3

4 Well, if that should occur in this case, I
5 want to remind you again that after the lawyers have
6 finished with their summations the Court will instruct you
7 as to the law applicable to this case, so you don't have
8 to be concerned about any discussions during closing
9 arguments or summations as to the law.

10 With those instructions in mind, we are about
11 to proceed to summations, and under our system the Govern-
12 ment, because it has the burden of proof, as I told you
13 repeatedly now, to prove the defendant guilty beyond a
14 reasonable doubt, the Government goes first and makes an
15 opening summation.

16 Then defense counsel will have an opportunity
17 to sum up followed by the Government's closing summation.

18 At this time, if the Government is ready to
19 proceed, we will have the closing summation by the Govern-
20 ment's counsel.

21 Are you ready to proceed, Mr. MacBeth?

22 MR. MAC BETH: The Government is ready.

23 THE COURT: All right.

24 MR. MAC BETH: May it please the Court, Judge
25 Motley, Mr. Goldman, ladies and gentlemen of the jury:

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2 As Judge Motley has told you, you have now
3 heard the evidence on both sides of this case. It is
4 my job to sum up that evidence to you, take you back
5 through it, talk to you about what it means.

6 I want to start with something I said to you
7 in my opening statement a couple of days ago. That was
8 that Morris Brooks isn't any kind of hero. The Govern-
9 ment doesn't contend he was.

10 You have seen and heard from the witness stand
11 what I think bears that out and makes it clear to all
12 of you; Morris Brooks is a person who was willing to steal
13 from the Government, made false entries in Government
14 books. He took more than the checks involved in this
15 case from the Government -- as you know there was another
16 large check, and as David Hardoon said on the stand, he
17 is a man who tells stories.

18 There isn't any question about that. He told
19 a story to Mr. Hardoon about where those two checks came
20 from, the Brown checks, saying that they were loans. He
21 told Mr. Rosenblatt a story about them. He told him
22 they were people who were trying to avoid their taxes, people
23 who were getting kickbacks, getting payola.

24 The other thing about Mr. Brooks that I told
25 you, the Government put him on the stand because he was

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2 the other members of this conspiracy. He was the person
3 with whom Mr. Rosenblatt reached the agreement to defraud
4 the Government, and that is why the Government put him on
5 the stand.

6 You can perfectly well understand from the
7 testimony that you have heard that agreements of this sort
8 aren't proclaimed from the housetops. It is obvious what
9 Mr. Brooks said about the first time he goes into the bank,
10 Mr. Rosenblatt concocts a story that, well, we will tell Mr.
11 Rankel that you made a loan to the Rabbinical College and
12 you are returning it.

13 The same thing happens again when he tells
14 Brooks, "Don't bring Hardoon down," Brooks of course passe
15 that on to Hardoon later on, and Hardoon remembers it, he
16 says that's right, the Rabbi said don't bring Hardoon down.
17 It is the kind of thing that you do keep close, you don't
18 make public, of course you don't, you never make that kind
19 of criminal conspiracy public.

20 The real question you have to ask yourselves,
21 and what you have to look at, taking Morris Brooks for
22 what he is, is the evidence in the case, hard evidence,
23 other witnesses, the paper, and you will see that this
24 consistently supports Morris Brooks.

25 Now, let me go back and take you through some

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2 of that. We have first, of course, Mr. Brooks obtaining
3 the two checks from the post office. He then goes to Mr.
4 Hardoon and he asks Mr. Hardoon to cash them. He tells
5 him the story about a loan. Hardoon won't do it. Now
6 it is corroborated by Hardoon. He is on the witness stand.

7 The difference is in the details a couple
8 of years later about what happened, there isn't any question
9 that that conversation took place.

10 Then Mr. Brooks gets in touch with Mr.
11 Rosenblatt, he goes down there, Hardoon takes him down,
12 Hardoon wasn't present during all the conversation, and
13 he tells Rosenblatt a different story, he tells him that
14 these people don't want to pay any taxes. There is
15 dickering. Rosenblatt agrees to take 10 per cent out of
16 these two checks, which total \$10,000.

17 Then the checks are deposited, Rosenblatt
18 withdraws nine thousand, makes it into a cash payment and
19 then the next check in the series, the \$700 check to Brooks.

20 Brooks says he gave that back to Rosenblatt.
21 Rosenblatt says Brooks kept it. Either way there is no
22 question that Rosenblatt -- and Rosenblatt admits this, that
23 he kept at least \$300 out of that check and maybe a
24 thousand dollars, no question, he kept saying.

25 I want to draw your attention here to an error

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2 that is in the indictment just so that you are clear about
3 it and it doesn't confuse you, it mistakenly says in the
4 indictment that that two checks were deposited into the
5 accounr of the Rabbinical College of Queens.

6 From all the testimony you have had here, it
7 clearly isn't so, those two checks -- and I don't think
8 this is disputed by anyone -- were in fact deposited into
9 Mr. Rosenblatt's personal account.

10 What happens next?

11 Comes October and Brooks has in his hand the
12 James K. Sullivan check for \$9700, Government Exhibit 10.

13 Again, he takes it down to Mr. Rosenblatt. This
14 time he tells him a different story. He says Sullivan
15 is getting kickbacks from the Government. There is no
16 question that this is another fraudulent deal, like evading
17 taxes, this one is beating the Government out of something
18 else, this one is beating the Government out of a fair
19 contract.

20 Rosenblatt takes the check down, deposits it,
21 the cash comes out, and again Rosenblatt himself admits that
22 he took at least \$500 out of that one. Brooks says it
23 was more. Brooks says it was 10 per cent.

24 Comes December, another check, bigger check
25 this time, a check for \$27,204 goes into the account and

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2 this time there is more conversation that Brooks remembers.

3 First of all, this comment about Hardoo
4 "Don't bring Hardoon down there, don't have him part of
5 this," and that is corroborated by Hardoon. Hardoon
6 remembers Brooks telling him that at about that time.

7 Then there is a story that is concocted to
8 tell Mr. Rankel at the bank if he asks any questions, tell
9 him it is a loan.

10 They go into the bank and put in the @7,200
11 check, Government Exhibit 11, and comes out a check for
12 \$26,200. No question about this one. Rosenblatt's
13 testimony on this agrees with Brooks. On that one he got
14 \$3000, at times even more than 10 per cent.

15 \$3000 for cashing one check, ladies and gentle-
16 men.

17 That check, dated September 30, went into the
18 bank a day or two later, was the first one that was made
19 out to H. L. Dalis.

20 You remember that Brooks testified that
21 Rosenblatt pronounced that name Dali. You also remember
22 that Hardoon testified that he had a conversation with
23 Rosenblatt at just about this time, he couldn't remember
24 whether it was December or January, but it was right around
25 there, he was worried about this whole thing, like a very

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2 decent friend, and the same man who warned Rosenblatt
3 about his own nephew, he goes to Rosenblatt and he asked him
4 about Brooks and these checks and it comes out, he brings
5 it up.

6 What does Rosenblatt say? It is okay, I
7 know Daly.

8 It is obvious what he is referring to. He is
9 saying that he knows the payee on that check. We know
10 that it is false. Not even Rosenblatt contends that any
11 more.

12 I can't think of a more pointed way to under-
13 line that testimony and its correctness than the fact that
14 Hardoon to this day doesn't understand the significance
15 of that, he said that right on the stand, he still doesn't
16 know what this thing about Dali was. It is the kind of
17 thing that sticks in your mind, especially, when, as
18 happened here, Rosenblatt cuts off the conversation after
19 that, the way Hardoon put it was "The case is closed."
20 Rosenblatt didn't want to go into it any more. But he
21 remembered the thing about Dali, and it didn't make sense.
22 It makes a lot of sense, if you realize, as you do from
23 the paper here, that just a day or two before, right around
24 that time, Rosenblatt had received a check made out to
25 a man whose name he pronounced as Dali, which was for,

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2 in that case, \$27,000 he had kept \$3000 out of.

3 We go on to March. This time it is a check
4 again for Dalis, \$32,000 into the account, \$31,000 out of
5 the account. No question about it, Mr. Rosenblatt kept
6 at least a thousand dollars for cashing that check.

7 And probably he kept a lot more in cash that
8 Brooks turned over to him.

9 We move on into April. This time it is another
10 Dalis check, \$24,600. What comes out? What comes out
11 comes out of the account, a check for Brooks for \$24,600,
12 all the triple endorsements, the whole works, everything
13 you have heard about, and on top of that, three official
14 checks, all of them dated the 2nd of May, one for \$1100,
15 one for \$3000, one for \$8500.

16 They are all made out to Brooks.

17 Rosenblatt says he doesn't remember anything
18 about that. You heard what Mr. Rankel said this afternoon,
19 it is not Rankel's handwriting on it. He knows Mr.
20 Rosenblatt very well. Mr. Rosenblatt was standing there
21 when those checks were made out.

22 Two of those checks, Morris Brooks testified,
23 he deposited in a new bank account he set up.

24 The third one, the third one is for \$8500.
25 What does that have on the back of it? All that it has

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2 got ia signature of Brooks and a signature of Rosenblatt and
3 no triple endorsement, and you heard what Mr. Rankel said
4 again this afternoon, Rosenblatt got that money, he
5 may have split it up afterwards or didn't take the whole
6 8500, but he was on the stand this morning and he said
7 he couldn't even remember any one of those checks, and he
8 didn't get any of the cash from any of the official checks.

9 Of course, after receiving cash in that case,
10 the 2nd of May, Rosenblatt went to his personal safety
11 deposit box and he put, by his own testimony, a thousand
12 dollars in cash into his safety deposit box.

13 The next check comes out in July, Frank P.
14 Conley, \$41,800 this time.

15 He takes it, Brooks takes it to Mr. Rosenblatt -
16 you remember he testified to Rosenblatt's reaction to, it's
17 wonderful, you have another man here. No trouble with
18 Dali? No, we have another one. We have Conley.

19 Kickbacks again. Same thing.

20 They take it down about the 5th of August,
21 three checks written out, one for the 5th of August, one
22 for the 6th of August, one for the 7th of August. They
23 are taking so much cash out of that bank that they have to
24 get in touch with Mr. Rankel in advance so he will have
25 enough cash there to dole out to them, that's how big

1 bsb

2 that transaction was.

3 Rosenblatt said he stood there with a check-
4 book in front of Rankel and wrote them out as per Rankel's
5 instructions for different days. You heard what Mr.
6 Rankel said about that this afternoon.

7 What happened was that on three successive
8 days Rosenblatt went in there, got out \$17350 one time,
9 12,000 on another occasion, 12,150 on a third occasion --
10 the first time because they were short of money, the bank,
11 Brooks had to take an official check for 2350, the fourth
12 of those official checks, and again, Mr. Rosenblatt didn't
13 remember anything about that official check.

14 They split up the proceeds again out of that
15 great bundle of cash. And by Rosenblatt's own admission,
16 he goes back to the safety deposit box one of those days,
17 and he puts another thousand dollars in cash into his own
18 safety deposit box.

19 In the middle of August, the last check,
20 the Dalis check for 38,500. Again he goes into the bank, out
21 come the checks in the total amount for cash, the cash is
22 taken out and split up, Brooks says it was split 10 per
23 cent and 90 per cent, the way it had always been done,
24 the way the whole arrangement was worked out from the
25 beginning.

1 bsb

2 Mr. Rosenblatt steps away from that a little
3 bit, he says "I only got a thousand out of it," he went
4 back to the safety deposit box, pulled out his personal
5 safety deposit box and put in a thousand dollars cash.

6 Brooks gives you some reason why the numbers,
7 the checks change. Rosenblatt wasn't a fool. He
8 said "We can't keep doing this so it looks like there is
9 10 per cent coming out here, we have to change it around."

10 And that is exactly what they did, they changed
11 it around.

12 The stories come out, you heard it from Brooks
13 on the stand, and you have seen the whole pattern of the
14 checks that go back and forth, that Haroon has testified
15 to, Rankel has testified to, that Brooks is telling you
16 the truth.

17 If he has any interest now in testifying in
18 this court it is to tell the truth. He said that there
19 isn't any other interest he could have.

20 It is not a pleasant truth, he is not a
21 pleasant person. What he did was shocking, he betrayed
22 an important public trust in a big way, but what he said from
23 that witness stand supported what we see in the documents,
24 the paper, and what you have heard from the other witnesses.

25 What did Mr. Rosenblatt have to offer in response

1 bsb

2 to that? Here is a man who manages three institutions,
3 the Rabbinical College of Queens is one of them, and two
4 other institutions where he has a public responsibility
5 to other people, a synagogue and a seminary, and he says
6 that he is the manager, that he is in charge of it and
7 runs it, makes out the deposit tickets, and he says that
8 he doesn't even know anything about what the monthly charge
9 is at the bank, or even the vaguest idea of what it is.

10 He would have you believe that while he goes
11 down to the bank all the time with Brooks, he is willing
12 to go through these transactions and cash these checks,
13 and take his cut of the proceeds, that he is so naive about
14 it that despite the fact that he is the manager and runs
15 these things, he doesn't even know how a bank operates.

16 He tells you next that he knew Brooks twenty-
17 five years ago, and he confirms here something that both
18 Brooks and Hardoon said, that he used to send mail over
19 to Brooks to have Brooks take into Manhattan to mail, so it
20 would get out fast.

21 And Brooks was kind enough to do it.

22 Then he goes on to tell you that in July of
23 1974 when all of this started he had to have David Hardoon
24 come down and make an introduction of Morris Brooks
25 to him.

1 bsb

2 Is that credible? A man who he knew for some
3 years, who has been carrying his mail as a favor, who has
4 talked to him on the phone, and his kids, and he has
5 given the mail to, he has to go through the formality
6 of an introduction when the man comes into his house again.

7 Of course it is not a story that is confirmed
8 in any way by David Hardoon. Then he goes on, and it is
9 remarkable that he offers no recollection at all beyond
10 that first strange story about the Inc. being left off the
11 first two checks, Sara Dudley Brown, Inc., and Gloria
12 Brown, Inc., two checks mailed to people in the area of
13 Washington, D.C., as you will see if you look at the check,
14 and he says the only thing that Brooks said to him was
15 they left the "Inc." off and they can't get them deposited
16 into the bank.

17 Now, use your common sense and remember,
18 for that matter, what the manager from H.L. Dalis said
19 yesterday. You get checks like that all the time if
20 you are a corporation, and there is no problem putting
21 them into the bank.

22 After that Rosenblatt would have you believe
23 no questions, no explanation, no discussions, just keep
24 going down to the bank and watch those checks roll in and
25 keep getting the money out of the check.

1 bsb

2 Again by his own admission, he got 300 on
3 the first two checks, 500 on the next check, 3000 on the
4 check after that and then 1000 on each of the last three
5 checks.

6 That is \$6800.

7 MR. GOLDMAN: Your Honor, I would object.
8 I believe the testimony was that the sum total of the last
9 three was a thousand dollars, not a thousand dollars on
10 each.

11 THE COURT: I have instructed the jury that
12 it is their recollection which governs and not the lawyers.

13 MR. MAC BETH: Ask for the cross-examination
14 of Mr. Rosenblatt on that point.

15 Money just kept coming in and lots of money,
16 more than \$6000 total cash, and never once any question,
17 any explanation, nothing.

18 Does that make any kind of sense to you at all?
19 The picture that Mr. Rosenblatt is trying to paint here
20 is patently absurd. He contends that he knew nothing of
21 finance, that he was perfectly willing to take these checks,
22 which were made out to someone else, and to take cash for
23 his services.

24 There isn't any suggestion from him that
25 Brooks was in the habit of coming over and making thousand

1 bsb

2 dollar donations. It is clear that he gets this money
3 every time he does a service for Brooks, every time he
4 takes one of those checks he gets paid for it.

5 What does he do with the money? He tells you
6 on cross-examination that generally contributions to the
7 Rabbinical College are put into the bank account, but in
8 this case he took \$3000 in cold cash and put that into his
9 personal safety deposit box, where obviously of course it
10 earns no interest, and it does no obvious good to the
11 charity which he contends he is looking out for.

12 In order to tell you this story, and to paint
13 his own picture of innocence, he is of course forced to
14 call Brooks a liar, that isn't surprising, it is pretty
15 easy to stand up and say he is a liar, and he knows that
16 the jury knows that Brooks has pleaded guilty here to
17 another crime, but he has to go further than that. He
18 has got to call David Hardoon a liar and he has got to
19 call Mathew Rankel a liar.

20 Think about Hardoon. He is in a difficult
21 position, he is a friend, and has been over the years,
22 of both Brooks and Rosenblatt. It is obvious from what he
23 said there on the stand. It can't be a pleasure to him
24 to have to testify here in contradiction of either one of
25 them.

1 bsb

2 If anything, he has got more reason to testify
3 against Brooks to put the lie to what Brooks has said.

4 You will remember that Brooks got his nephew
5 in a lot of trouble, a lot of trouble. And he was angry
6 about it. He went over there and gave Brooks a good
7 piece of his mind.

8 When he came in here and testified on that stand
9 you think back to his behavior on that stand, there wasn't
10 any animus towards anyone, he was telling the story the
11 way it happened.

12 One essential point after another he contra-
13 dicts what Rosenblatt said, and he supports essentially
14 what Brooks said.

15 The first conversation: He says something
16 about an accountant. Brooks remembers that in a conversa-
17 tion with Rosenblatt as well. Rosenblatt will have to
18 concede that, he will say he would wish he was an accountant.

19 Then there is this point about who made an
20 introduction. Hardoon said he didn't do anything like
21 that.

22 Why did he have to? What Brooks did with
23 Rosenblatt was his business. It is obvious they had known
24 each other a long time. There was no need for introduc-
25 tions.

1 bsb

2 And then the point about Hardoon calling up
3 Rosenblatt. Hardoon is very clear about that, why
4 would he call up Rosenblatt? Rosenblatt would have you
5 believe that Hardoon called him up and set up the whole
6 thing.

7 The next point is the conversation he has with
8 Brooks where he says he doesn't want any more to do with
9 this. Brooks says, "Well, you were right, and the Rabbi
10 told me to keep you out of it anyway."

11 Brooks remembers saying that to Hardoon,
12 Brooks remembers Rosenblatt saying that to him, Hardoon
13 remembers hearing that from Brooks, and Rosenblatt says
14 no such conversation.

15 The last and important one again, and let me
16 emphasize that, that conversation about Dalis or
17 Dali. It stuck in his mind. Of course it stuck in his
18 mind. Why would he ever fabricate a story like that?
19 The answer is he wouldn't fabricate a story like that. That
20 is a direct statement of a conversation he had with
21 Mr. Rosenblatt.

22 You can run over the thing, the same thing with
23 Mr. Rankel. Rosenblatt was forced into the position of the
24 story he decided to tell here, that Mr. Rankel told him
25 to do that.

bsb

There is no question that Rankel has a good opinion of Mr. Rosenblatt, there is no reason that he would come in here and tell lies of any sort. He doesn't remember that stuff about the checkbook and he does remember that Rosenblatt was right there when the official checks were written out; right there in Rankel's own handwriting "Cash, Rabbi Rosenblatt" on the biggest one, the \$8500 check, he looks at it and says, "Rosenblatt got the money."

(continued on next page.)

Tk 4

1 jpb-

2

Now, Rosenblatt makes a lot of two points.

3

The first one was that all his dealings were open and

4

above board, never would hide anything, and second, the

5

very heavy emphasis on his reputation.

6

Now, think about the openness. It isn't open

7

to take cash that you contend is due to a charity and put

8

it into your personal safety deposit box, especially when

9

you testify that usually in the regular course of business

10

you put the donations and the contributions to the charity

11

in the bank account for the charity.

12

Those weren't open accounts. He took the

13

money that Brooks gave him and there was every reason

14

to believe that it was a lot more than a thousand dollars

15

on each of those checks, and he put it in cash on his own

16

personal safety deposit box.

17

It isn't open not to send out receipts to

18

someone that contributes to your charity, so you claim,

19

more than \$6000 in one year.

20

That is a lot more than naivete. The reason

21

you don't send out receipts to someone who has made a \$6000

22

contribution is that he never made any \$6000 contribution.

23

He was splitting the proceeds of a fraudulent scheme.

24

That is what was going on.

25

Then, the reputation. There is no question

1 jpb

2 Mr. Rosenblatt has a good reputation. The whole scheme
3 that is going on here depends on him having a good
4 reputation. What was Brooks' major problem? He had to
5 find someone to get to cash those checks, to pass them
6 through some bank account. To do that, checks of that size,
7 made out neither to the payee -- excuse me, made out
8 neither the two endorsers on the back, you have to have
9 someone who has a very good reputation. You have to
10 have someone who can go into the bank and ask a man like
11 Mr. Rankel, and not be asked questions. Because if you
12 are asked questions and people start looking into it,
13 you are caught, this isn't any answer to what you are doing.

14 So, of course, that is the person Brooks goes
15 to. That very reputation is what is crucial and important
16 to the whole scheme of fraud that you have seen laid out
17 here before you in the last two days.

18 Let's look at the basic facts of this case
19 just against your common sense. You have got eight checks.
20 All of them on their face look like good Government checks.
21 They are for big amounts. These aren't little checks
22 for somebody who has got Social Security checks coming to
23 them or some tax refund.

24 They start at \$4500 and they go up to over
25 \$40,000. They are big checks. None of them is made out

1 jpb

2 to Brooks. Not one. All of them Rosenblatt agrees
3 to cash and he keeps out of them a major share. He can't
4 remember whether he ever told anybody that he got 10 per
5 cent out of them.

6 But even though he can't remember that Brooks
7 told you that he got 10 per cent out of them and he himself
8 admits that he took more than \$6000 out of them. He
9 takes out in cash, a large part of that cash he puts in
10 his own safety deposit box.

11 Just look at those basic, very basic facts
12 in the case. You look in the paper in the case and
13 you see stamps on the safety deposit box ledger. The
14 checks in various sizes and denominations going back
15 and forth. Look for the logical explanation. The explanation
16 of common sense.

17 You have got to come to the same conclusion
18 that David Haroon came to knowing a lot less about it
19 than you do. It smelled. You bet it smelled. You
20 didn't have to be very close to this to see it smelled.
21 If you are anything like Mr. Rosenblatt was, you knew it
22 smelled and you knew what was going on. You knew the
23 story that Brooks was telling you, if you believed it
24 was true, it meant that you were doing something that
25 was illegal and fraudulent.

1 jpb

2 You were engaged and in an agreement with
3 Brooks to defraud the Government, to defraud it out
4 of contracts, to defraud it out of fair contracts, to
5 help people get payola and kickbacks. If you didn't
6 believe Brooks, you still knew it smelled. Anybody with
7 any common sense, anybody who runs ten bank accounts knows
8 it smells and anyone -- when one of his character witnesses
9 searches back for one event that really stands up -- what
10 he comes up with one night I taught school there and he
11 insisted on paying me, and that is the little vignette
12 which remains in the man's character, that kind of attention
13 to money, and it stands out that that time for not doing
14 something he got paid by Rosenblatt.

15 When you are that sort of man, you know a
16 lot more than it just smells. You know that you are en-
17 gaged in a fraud and you know that when Brooks brings you
18 those checks and you go down to the bank with him, you are
19 agreeing with him, you are going along with him, you are
20 part of what he is doing. You are getting that money
21 at the Government's expense illegally and improperly.

22 Now, you go into the jury room, you take off
23 your jackets and really get down and looking over this
24 evidence carefully and you should weigh it very carefully
25 and think very carefully about what has been said.

jpb

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2 That is an essential part of your job. The
3 Government expects that of you, the defense expects if
4 of you and the Court expects that of you.

5 When you go in there don't take off your
6 common sense. Judge Motley has told you already, and
7 I am sure she will tell you again, that you have to be con-
8 vinced beyond a reasonable doubt of the guilt of the defend-
9 ant.

10 Remember that, beyond a reasonable doubt. Not
11 a whim or a caprice or some imaginary fabrications such
12 as you heard from the witness stand today, which was a
13 patent failure to recall events that can only have stuck
14 very clearly in your mind.

15 Use you common sense. When you see and smell
16 what was going on in this case and what you have seen from
17 the witness stand, testimony from Brooks, corroboration of
18 that testimony by Hardoon and by Rankel, the Government
19 is confident that you will conclude that Mr. Rosenblatt
20 is guilty as charged.

21 Thank you very much.

22 THE COURT: Thank you, Mr. MacBeth.

23 Mr. Goldman.

24 MR. GOLDMAN: Yes, your Honor.

25 Judge Motley, Mr. MacBeth, Rabbi Rosenblatt,

1 jpb

2 Madam Forelady and ladies and gentlemen of the jury:

3 I am fully aware of the fact that the mind can
4 only absorb what the seat can endure. I know you have
5 been sitting since early this morning. Frankly, I know
6 the difficult job you have had today and, of course, until
7 I heard Mr. MacBeth sum up, I was not prepared to accuse
8 him directly of turning off the air-conditioner as soon
9 as the defendant went on to summation, but at this point
10 I am prepared to attribute it to him.

11 I often wondered, by repeating slogans and
12 haranguing about hidden rituals, that by the time I had
13 gotten a chance to speak to you, you would have heard
14 enough.

15 I would ask and beg that the same kind or court-
16 eous attention that you have given at the time of the trial
17 would extend until I discuss with you Rabbi Rosenblatt.

18 There is nothing so simple than anybody who
19 wants to who can use words and phrases to make it sound like
20 the most criminal and heinous piece of business there is.
21 Just by way of simple example, and I will get to it later,
22 you saw documents, you heard testimony, you heard exhibit
23 numbers, all of which was to be evidence of the criminal
24 and devious conspiracy in which Rabbi Rosenblatt entered.

25 And yet, taking each and every document, if you

1 jpb

2 recall, I asked Mr. Rankel, yesterday, is there anything
3 in front of you that is anything other than a normal
4 and natural banking transaction, and he said no.

5 Mr. Rankel also personally was aware that
6 checks were cashed for \$180,000 and he saw nothing whatso-
7 ever wrong with it. He told you so.

8 I only ask you to keep that in mind when you
9 recall the slogans that Mr. MacBeth thows at you. Some-
10 thing smells. Well, if it smelled so bad, how come Mr.
11 Rankel didn't smell it?

12 That is \$180,000 in cash going out of the bank.
13 He smelled nothing. Mr. Rankel is a businessman and he
14 is a banker and he is used to cash transactions.

15 But, in any event, let us discuss the case it-
16 self, to the extent that there is a case.

17 Oh, yes, there is a case. There must be a
18 case. Why must there be a case? We are in a courtroom,
19 we have a prosecutor, a United States attorney, a man who
20 has committed a crime, there must be a case.

21 Well, that is not necessarily true. As you
22 learned an indictment is only a charge and only brings
23 the parties into court.

24 As it happens many times when you finally hear
25 all the facts, there is no case at all.

1 jpb

2 I am only reminded by the anecdote that someone
3 was once asked, "If you call a tail a leg, how many legs
4 does a dog have?" To which the person answers "Five legs."

5 To which the proponent of the question says,
6 "Not at all. Even if you call a tail a leg, it isn't, a
7 dog still only has four legs."

8 You can call this a criminal conspiracy all
9 you want and you can call it smelly all you want, but when
10 you look at it, it is nothing more than a man took somebody
11 in the community on faith, he did him a favor, he cashed
12 the checks openly and he accepted, yes, not as Mr. MacBeth
13 said "lining his pockets," not making money, he accepted
14 it on behalf of the Rabbinical College.

15 Now, Mr. MacBeth has said to you over and over
16 again, because he knows, it is generally a suspicious
17 circumstance if somebody is putting cash in a safety
18 deposit box, so he plays that tune over and over. He
19 took cash and put it in a safety deposit box and therefore,
20 ladies and gentlemen, you know that Rabbi Rosenblatt was
21 in a conspiracy and he is looking to defraud the Govern-
22 ment. He forgets one thing, which I am sure none of
23 you forgot. Rabbi Rosenthal on the stand, myself in my
24 question tried to ask Rabbi Rosenblatt what happened to
25 that money, what was it used for, where did it go, and guess

1 jpb

2 who objected? Guess who didn't want you to hear where
3 that money went and how it was used and demonstrate to
4 you that it did not go into Rabbi Rosenthal's pocket and
5 then he stands before you and says, "Oh, he put the money
6 in the safety deposit box."

7 Guilty. Well, if he had any doubts and if
8 he was ever going to have the audacity to suggest to you
9 that that money was improperly used by Rabbi Rosenblatt,
10 all he had to do was sit still another minute and he
11 would have heard chapter and verse where that money went
12 and he didn't want to.

13 MR. MAC BETH: Objection, your Honor.

14 MR. GOLDMAN: That was the same objection he
15 made when he could have found out where the money went.

16 MR. MAC BETH: Objections and rulings on law
17 have been clear from the Court. Objection at the time was
18 perfectly proper and to draw this kind of inference from
19 material which the Court has ruled on not before the
20 jury is entirely improper.

21 MR. GOLDMAN: How can he sum up that the
22 money in that box would be evidence of guilt after he
23 objected to finding out what happened to it.

24 Now, ladies and gentlemen, if I may proceed.
25 Don't get nervous by the stack of notes. There is only

1 jpb

2 a line or two on each page and most of it is duplication.

3 What we have here is simply the word of Morris
4 Brooks.

5 As I will explain to you, we really only have
6 his word. You can't bootstrap a piece here and a piece
7 there and a thing here and say that Morris Brooks' word
8 has been corroborated. It is the essence of this case is
9 not the cashing of the checks. That is no crime. It
10 is no crime to accept a portion of the proceeds of the
11 check, either for cashing it or for donation or for any
12 reason. That is no crime whatsoever. Whatever anybody
13 may personally think about it, it is not a crime under our
14 laws. The only essence of the crime here is if Morris
15 Brooks said to Rabbi Rosenblatt, the reason I want you
16 to cash these checks is because these people are trying to
17 hide the money from the United States Government and will
18 you please participate in hiding that money.

19 So that the Government will be defrauded of
20 taxes, fair contracts or any other kind of fraud whatsoever.

21 It is only and solely Morris Brooks that says
22 such a conversation ever took place. All the rest, the
23 check cashing, none of it is a crime.

24 I will, in abiding by the Court's admonition,
25 not talk to you about the law, but there has to be a

1 jpb

2 criminal agreement. Not an agreement to cash checks,
3 not an agreement to go to the bank, not even an agreement
4 to accept money, but a criminal agreement to defraud the
5 United States and both people have to agree to defraud
6 the United States.

7 If one person is doing it innocently and the
8 other one is a thief, then there is not the criminal agree-
9 ment between the two that is necessary to convict.

10 Mr. MacBeth said, why do we produce Morris Brooks
11 here? Because conspiracies are not open and notorious.
12 You don't shout the conspiracies over the rooftops. You
13 try and hide what's going on.

14 So the only people we can ever get are the
15 co-conspirators. Rabbi Rosenblatt stamps his school on the
16 back of the check. Rabbi Rosenblatt signs his name on
17 the check. Rabbi Rosenblatt goes to the bank. He talks
18 to a man who has known him for many years. The money
19 goes into his account. Bank statements are issued every
20 month showing this money.

21 Is there anything else you can do outside of
22 taking an ad in the New York Times? Is that not really
23 proclaiming it from the rooftops, Is that the act of
24 a sly, devious conspirator?

25 He made certain there was no way that anybody

1 jpb

2 involved didn't know exactly what he was doing. The
3 best, of course, is "I don't know how you hide from the
4 Government money that the Government is paying out."

5 I simply do not know and I suggest that none
6 of us can fathom it. How can you hide money when the
7 Government is paying the money. If you pay somebody
8 ten dollars, can it be said that whatever that person did
9 with the ten dollars, can they hide the fact that they
10 were paid by you the ten dollars?

11 The same with the kickback. The kickback
12 was the same going to payee. I haven't heard too much
13 about kickbacks in cash, but again how can you hide from the
14 Government when it is the Government paying it and a record
15 is kept of it and it is maintained. It can't be done.
16 I suggest to you that if the prosecution says that
17 Rabbi Rosenblatt was naive enough to believe that was
18 even possible, then you have to acquit him by virtue of
19 insanity and if he is that naive, he never could have the
20 criminal intent to defraud the Government.

21 Now, you heard ten per cent, ten per cent, ten
22 per cent, ten per cent. It turns out it wasn't ten per
23 cent. Why did Brooks say ten per cent? Why did he say
24 ten per cent, because that sounds a lot better. From
25 that Mr. MacBeth can argue who would in his right mind

1 jpb

2 pay ten per cent to cash a legitimate check. It really
3 wasn't ten per cent. It was more like four or five, and
4 sometimes less. The key thing is Rabbi Rosenblatt never
5 personally gained from this.

6 Mr. MacBeth summed up to you not on the
7 \$18,000 that he opened on. Now he is summing up on \$6000.
8 \$6000. Here is a man supposedly greedy, hungry, never open
9 his mouth except to ask and demand money and yet he is
10 willing to participate with Brooks in the obtaining of
11 \$180,000 and all he gets it \$6000. Maybe a little extra,
12 but that is roughly it.

13 If you recall, Mr. MacBeth summed up to you
14 on \$6000.

15 We know from Mr. Brooks that when somebody is
16 involved with him criminally, he splits 50-50., because
17 when he went to Abe Hardoon and gave him a check for
18 \$230,000 and he told Abe Hardoon the check was stolen,
19 50-50.

20 So, again, you can use slogans all you want,
21 ten per cent. There was only one check that indicates
22 ten per cent. After that, nothing. Again it is only the
23 word of Morris Brooks as to these things, above \$6000 and
24 again, I don't have to tell you how much and how far
25 anybody -- anybody's life, anybody's reputation, anybody's

1 jpb

2 reason for being should be destroyed on the word of
3 Morris Brooks. If the word "despicable" didn't exist, it
4 would have been invented to describe that man.

5 Mr. MacBeth tried, tried to save something of
6 Mr. Brooks. He said it wasn't a pleasant task for him to
7 come here and testify. Do you remember him on the stand? He
8 was having a ball. He was enjoying himself thoroughly.
9 Did he look to you like a reluctant, reticent witness, the
10 words being drawn out of his mouth, accusing another man?
11 A man who has never in his entire life been accused of a
12 single impropriety. Why, he was enjoying it.

13 What kind of human being could conceivably enjoy
14 such a task? Only a Morris Brooks. On that and on that
15 man's word, no human being's life can be destroyed.

16 There was only one time when he became reluctant
17 and there was only one time when he became quiet and there
18 was only one time when the words came out of his mouth
19 slowly. That is when I asked him if he had split the
20 money with anyone? Then he was quiet and the smile
21 disappeared and he said no.

22 When I asked him if he had confederates with
23 regard to this scheme and again, he said no. Up until
24 that moment, gregarious, charming, Morris Brooks, in fact
25 he was going to convince the whole jury.

1 jpb

2 He had been a con man all his life. He ad-
3 mitted it. Even as he went to the Rabbi. What story
4 can I tell. Not what is the truth. I got to hink of
5 a good one. Gee, I told a story to Hardoon. Maybe he
6 didn't buy it. I better figure out something better for
7 the Rabbi.

8 That is the kind of man he is. When he came
9 to this courthouse to testify, what kind of story can I
10 figure out that maybe the jury will accept? What kind
11 of story can I tell that when I come up for sentencing
12 maybe they will go easy on me. Look at the great fish I
13 threw them. Look at the conviction I got for them. What
14 story can I tell to make sure that happens? The Govern-
15 ment asks you to trust him.

16 The Government asks you to destroy this
17 man on his word. The Government doesn't trust him. Th y
18 put off his sentence until after this trial. They held
19 it over his head. Why? If they trusted good old Morris
20 Brooks to tell the truth under any circumstances, let him
21 be sentenced in due course, let them not hold that sword over
22 his head, but they don't trust him.

23 You should, you should destroy this man on
24 his word? I suggest to you that we would all be hung.

25 Now, Mr. MacBeth says, Oh, you want to see

1 jpb

2 evidence of a criminal conspiracy. Brooks and the Rabbi
3 concocted a story to tell Mr. Rankel that this was a loan.
4 Well, Mr. Rankel was on the stand. Did you hear Mr.
5 MacBeth ask Mr. Rankel, did they ever say it was a loan?

6 Mr. Rankel never said it and better yet, Mr.
7 McBeth never asked him. Do you know why? Because
8 it never happened. And yet that was supposed to be one
9 of the great pieces of evidence to show that the Rabbi and
10 Morris Brooks got together and made up a story.

11 I again tried to show you that Morris Brooks
12 had simply made a case of "which story can I tell to get
13 past this"? The story he told in the courtroom was
14 far and beyond different than the testimony he gave at
15 the grand jury, especially at a time when you would
16 think his collection was much clearer than it is now.

17 He admitted, maybe he didn't say it, but maybe
18 he wasn't asked. Then I asked him, weren't you asked
19 what conversations took place and in response to that,
20 why, he gave us five or six different conversations here that
21 took place. But in the grand jury, when he was asked
22 that question, never testified. No kickbacks, no payola,
23 none of it.

24 Incidentally, I do apologize for raising my
25 voice. I know that can be disconcerting.

1 jpb

2 I tell you only because this case is a bit
3 upsetting to me. I told you in the beginning that the
4 privilege and the duty in this case was not one of prosecu-
5 tion but was one of an innocent man and a simple and
6 modest man being wrongfully convicted on the word of a self-
7 confessed thief.

8 I am refraining to admit, I am upset by it
9 and I am upset by the possibilities of it.

10 From time to time my voice is raised. I apolo-
11 gize. I know it is rather upsetting, especially when you
12 can't answer back.

13 The essence of Morris Brooks' testimony is
14 that the Rabbi was a greedy man. The Rabbi couldn't wait
15 to ask what are these checks for? Every time Morris
16 Brooks came with a check he had to ask him what is the
17 check for.

18 Morris Brooks would tell you again this one
19 is taxes, this one is kickbacks, this one is that. As if
20 the Rabbi couldn't wait to be assured, to make sure that
21 he was engaging in a criminal enterprise.

22 He had to be assured that every time he was
23 doing something it was criminal. Realistically, if in
24 fact the Rabbi knew he was engaged in a criminal act, why
25 do you have to ask every single time? Maybe you should do

1 jpb

2 like DAVID Hardoon. Hear no evil, see no evil. But not
3 the Rabbi. He wants to know every single time when he
4 is doing a criminal act.

5 I submit to you that is inconsistent with
6 any rationale or normal behavior.

7 Morris Brooks is always trying to make it
8 better than it is because he needs it. He is coming up
9 for sentencing and over this man's dead body, he hopes to
10 escape the punishment he rightfully deserves.

11 Now, we have to keep in mind that the Govern-
12 ment has stipulated and it is in the stipulation, the
13 Rabbi never knew the checks were stolen. He never
14 participated with Morris Brooks in that and never had any
15 knowledge of it.

16 All now we have here is a simple check
17 cashing situation. The only things about those checks
18 are the conversations with Morris Brooks. As I told you,
19 each and every story which he tells are impossible. Even
20 the most naive person in the world could not believe
21 it.

22 The Government had a record as to who was
23 paid, how much was paid, the date on which it was paid
24 and frankly whatever the people want to do with the
25 money after that is their business. But the fact is the

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2 Government knows they have the money.

3 MORRIS Brooks, by his own testimony, he got
4 over \$165,000. What did he do with it? In less than
5 a year he gambled it all away.

6 That is a good story, too. Because if you
7 don't say something like that, you got to give it back.

8 Again, I tried to ask Morris Brooks about bank
9 accounts possibly outside the United States and again he
10 was forced to terminate that question by virtue of
11 objection.

12 Morris Brooks had one or two alternatives. He
13 could give the money and get some leniency or he could give
14 up human beings, even innocent ones.

15 He chose to keep the money. Or, if you believe,
16 he gambled away \$165,000, this man who was wifeless and
17 had five children, gambled away \$165,000, the man is not
18 even a human being.

19 On the word of such a man, you have been asked
20 to destroy this man whom an entire community showed up
21 today to tell you that he is honest, he is decent, he is
22 feeling.

23 I tell you frankly it could have been 100
24 people. In fact, even Mr. MacBeth said it is getting
25 repetitious, so efforts had to be made to limit it. But

1 jpb

2 a community who has known him for 15, 20, 30 years. They
3 told you what kind of man he is. Unselfish, doesn't know
4 about money, is not a greedy man, says if somebody can't
5 pay, "Don't even ask him.. He is an elderly person,
6 don't ask him."

7 That is the picture of the man you got from
8 people who know him thirty years. Are every one of them
9 liars? Did every one come to this court to commit perjury?
10 Is there any doubt in the sincerity of those people as
11 they told you about Rabbi Rosenblatt? Only that thief,
12 that despicable Morris Brooks, the only man who said
13 anything other than that about the Rabbi.

14 Would you take the word of Morris Brooks
15 against those people?

16
17 (continued on next page.)

18
19
20
21
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End 4

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2 David Hardoon. Mr. MacBeth suggests that David
3 Hardoon was some sort of a great corroborating witness.
4 I frankly missed it if he was. The first thing David
5 Hardoon told us was that he was present on the first con-
6 versation with Rabbi Rosenblatt. In fact, he drove Morris
7 Brooks to Rabbi Rosenblatt's house and he was present.
8 And, if you recall, Morris Brooks had testified that at
9 that occasion there was negotiating and dickering for
10 10%, there was Morris telling the Rabbi this is money to
11 be hidden from the government, and David Hardoon, who I
12 frankly am not presenting to you as one of the great
13 paragons of virtue, as you will soon see, says it never
14 happened. There was no talk of 10%. There was no talk of
15 tax evasion or hiding money from the government.

16 Now, David Hardoon did say one thing which Mr.
17 MacBeth would like to make capital of, that sometime in
18 December or January he smelled a rat or something and he
19 started to mention it to the Rabbi and the Rabbi said, "It
20 is okay, I know Dally. Hardoon with his Dally,
21 Brooks with his Dally, something to that effect. It is
22 too simple to suggest that Mr. Hardoon told us that at the
23 time this conversation took place Rabbi Rosenblatt was in
24 the middle of feeding a bunch of children there which is
25 what he said, taking care of them.

1 bslk

2 But he could not even tell us what the word
3 meant, that it -- he could not say what it meant. It had
4 no meaning to him, and he doesn't even know what it meant
5 to the Rabbi.

6 On the basis of that, how much can you really
7 make of it? But the more important thing is that in
8 December, January of 1974, there had been only one check
9 to H. L. Dalis, one, there were two to Brown, one to a
10 Conley, one to Dalis, so that as of that time Dalis was
11 not a significant name particularly. So that the Rabbi
12 should have selected one name which was not particularly
13 significant to tell to a man who didn't know anything about
14 it anyway, supposedly, I suggest to you that no great
15 inference can be drawn from it.

16 But as far as Mr. Hardoon goes, he also told
17 you, which I don't think he had to, but he was a Govern-
18 ment witness and the Government is sometimes bound by their
19 own witnesses, you can't believe a word that Morris Brooks
20 says. All right. To that extent I will accept his
21 testimony. He tells you so many stories you don't know
22 what to believe.

23 Morris Brooks, aside from his other great traits,
24 had given to David Hardoon, his good, close friend, a
25 man whose wife took care of his children, a man who lived

bslk

1 across the street, a man who was always befriended him,
2 he gives David Hardoon's nephew, 20 or 21-year-old boy, a
3 check for \$230,000, and David Hardoon knows nothing about
4 it.
5

6 The boy is subsequently caught attempting to
7 negotiate that check and he is arrested and Uncle David
8 tells us that he did not know that that check came from
9 Morris Brooks. Here is his 20-year-old nephew, arrested,
10 involved with a government check, but he doesn't know the
11 check came from Brooks, his friend, the man whose kids he
12 is taking care of, et cetera.

13 I present to you that the may be a little
14 difficult to believe. I would have imagined that he would
15 have gotten it out of his nephew one way or the other.
16 The boy would have told him the story, if in fact it was
17 true, or quite possibly in fact the check was given to
18 David Hardoon, and his young 20 or 21-year-old nephew was
19 left to take the blame. Because, as you later heard,
20 Mr. Hardoon said that when he learned -- and that was
21 only on the day of sentencing -- when he learned that that
22 check was given to him by Brooks he was enraged, enraged
23 at Brooks, and had it happened that way, rightfully so.
24 Here he had taken a boy who had not been in trouble, and
25 he made him into a criminal.

1 bslk

2 That is enough to enrage anybody. But what does
3 David Hardoon do, by his own admission, the morning
4 after Morris Brooks is arrested? He gets him a lawyer,
5 and low and behold, the same lawyer that Morris Brooks
6 had. That is rather odd. I could have understood it if
7 he killed Morris Brooks, not really, but figuratively,
8 I can understand if he went out of his way to bring down
9 the wrath of the gods on him, but to get him a lawyer to
10 defend him after what he has done to his nephew, and the
11 same lawyer the nephew had, I suggest that Mr. Hardoon's
12 involvement is a little more than meets the eye, and I
13 suggest to you as you watched him testify, there was a
14 man who was trying to hide something.

15 I suggest to you again, if you looked at
16 Morris Boorks' face when I asked him if Mr. Hardoon had
17 gotten money, that for the first time the smile vanished,
18 the charm disappeared, that Mr. Harcloon very well might
19 have been in an impossible position when he came into this
20 courtroom, and he had to -- he could not bring himself
21 apparently to come out and say a falsehood because he could
22 get caught, or something that anybody could really sink
23 their teeth into, because then somebody could catch him,
24 like if he said, "Yes, I was present and I heard talk
25 about tax evasion, well, maybe somebody else was there,"

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2 maybe somehow unbeknownst to him there would be a way to
3 refute it, so he could not say it, he could not say it.
4 So what does he throw you? The sort of maybe to back up
5 Brooks, he said something about Dally. He doesn't even
6 know what it means. You know why? Because what can you
7 say about him? It didn't happen. He didn't say it.
8 Maybe he said something else. Maybe when he was talking
9 to one of the children he said "Dolly," who knows what.
10 There is no point to contradict. That is why he said it
11 that way. Because after all, here is Mr. Hardoon also,
12 after he is present at that first conversation, why, he
13 is carrying envelopes back and forth, he is an errand
14 boy. He is bringing the checks to the Rabbi, he is
15 carrying the cash back.

16 I made an error yesterday, the white envelope
17 he testified to was not \$3,000 in it, there was \$19,000 in
18 it in hundreds and twenties. He does not know what is in
19 it, he does not know what is in it. He thought maybe, but
20 he does not know.

21 So I suggest to you, there were only three things that
22 Mr. Hardoon told you which were acceptable, and the only
23 reason you got the real truth is because I don't think
24 he appreciated that they were critical. One is he lives
25 in a community where the doing of favors and helping of

1 bslk]

2 one's fellow man is an important factor and a person is
3 looked down upon if they do not do it. He told you
4 Morris Brooks is a liar and you can't believe a word
5 he says, and that is about it.

6 The other thing he said, he was present when
7 the critical conversation took place, and he said it never
8 happened. So be it.

9 That is Mr. Hardoon, who has been brought to
10 corroborate, to corroborate Morris Brooks.

11 Now, a lot has been made of the fact that the
12 Rabbi maybe didn't ask enough questions. Well, if he had
13 asked questions -- if he was a man who would have asked
14 questions, he would have really found out or really
15 thought or really understood or made sure that the whole
16 thing was impossible.

17 You know, when a Rabbi asks questions, he asks
18 a few questions, how is your wife? How is your kids? Who
19 created the universe? After that they run out of
20 questions. That is what this man was concerned with, not
21 business dealings, not business transactions, not things
22 of that nature.

23 You have heard people who know him all his
24 life tell you that.

25 The picture created by Boorks, which you must

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1 believe, is completely contradicted by the outpouring of
2 people who have known him all his life, and if you believe
3 those character witnesses as to what kind of man this
4 is, then the story of Morris Brooks of this man saying,
5 "I won't cash a check for you unless you pay me" --
6 and asking everytime what is the check about and I won't
7 do it unless I get paid, it doesn't exist and it cannot
8 exist.
9

10 Incidentally, I just want to point out that every
11 time Haroon came up with Brooks, he suddenly lost his
12 memory. He couldn't even remember -- he said originally
13 that he told Haroon it was a loan, on page 105 of the
14 transcript, he said he couldn't remember if he told
15 Haroon it was a loan, he couldn't remember if the dis-
16 cussion was in the street or the apartment, couldn't
17 remember if they went to the Rabbi's that day or the next
18 day, couldn't remember whether Haroon was there or not.
19 Every time the word Haroon came up, Brooks couldn't give
20 you a straight answer.

21 Again, I suggest to you that Mr. Haroon's
22 credentials may be something less than impeccable in this
23 case.

24 The six per cent, the ten per cent, whatever it
25 is, I have taled to you about. I won't belabor it.

1 bslk

2 The number went from 18,000 to 6,000 dollars, and for
3 that 6,000 dollars, on the testimony of Morris Brooks you
4 have been asked to convict Rabbi Rosenblatt, a man who
5 his entire life has been without blemish, I won't say with-
6 out sin, I don't think any human being is totally without
7 sin, but I may be presumptuous in saying it, but he is as
8 close to it as anyone I have heard from the mouths of
9 people who know him best.

10 But he committed no crime, no crime for
11 which this Government should seek the end of his profession-
12 al and personal existence. He has made no criminal
13 arrangement with Morris Brooks. He has not sought to
14 defraud the United States Government. His sin, if there
15 was one, was naivete. But who would really believe --
16 Mr. MacBeth, he deals with criminals all day long, I might
17 be skeptical, I deal with clients all day long of various
18 nature. Many of you are in business, but who can say that
19 a Rabbi, who his entire existence is one of faith, would
20 believe that a man would come to him to set him up and
21 make him a part of a criminal conspiracy?

22 Did he ever hurt Morris Brooks? Did he ever
23 do anything to hurt him? Why would this man look to do
24 this to him? Oh, Mr. MacBeth will say, oh, he didn't
25 hurt him so bad. He got \$6,000. I would like to get

1 bslk

2 hurt like that. Nonsense, nonsense.

3 I don't think any of you would sell your
4 integrity or honesty for \$6,000, or \$10,000, and I don't
5 think Rabbi Rosenblatt could or would.

6 He did not personally profit, as I said.

7 Let me see if I can be brief now. In con-
8 clusion, let me say this --

9 Incidentally, I have been reminded that Morris
10 Brooks also said that the checks were made out, or that
11 Mr. Rankel told him how to break down the checks. Again,
12 you can check that on page 57 of the testimony, if you
13 wish, and as far as that part goes, Mr. Rankel does not
14 recall it being done in his presence.

15 You have to remember this was several years
16 ago and to Mr. Rankel, as he told you, this was nothing
17 but a normal transaciton. He did not tell you there was
18 anything special about it at all.

19 Rabbi Rosenthal does not call Mr. Rankel a liar,
20 by no manner or means. He may be mistaken or Mr. Rankel
21 could be mistaken. Neither of them were taking notes
22 when this occurred. The Rabbi knows there were three
23 checks made out, they were opened and notoriously cashed.
24 Mr. Rankel admits that he advised breaking the checks
25 down because of the drain of cash.

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1
2 I submit to you it is a rather insignificant
3 piece of business, and I submit to you it is the normal
4 thing to occur after several years duration that neither
5 party at that time treated it as particularly significant.

6 The Rabbi was taken in. Any of us could be
7 taken in. The day you can't believe a sucker story is the
8 day you are cynical beyond belief. There is always a
9 story that can appeal to you, there is always a way that
10 you can be taken, there is always a charming con man who
11 may come along and because you believe him, you will believe
12 his story. It can happen to anyone.

13 The Rabbi accepted Morris Brooks on faith, and
14 that was his sin. If there was a crime of accepting Morris
15 Brooks on faith, guilty.

16 But he entered into no criminal conspiracy, he
17 made no corrupt arrangement with Morris Brooks. Don't
18 listen to the suggestion that all the documents
19 corroborate Brooks. They are nothing but mechanical
20 documents of money going into the bank and the checks
21 being written. In fact, they dispute him because they,
22 in fact, show that no ten per cent was given.

23 Don't listen to the safe deposit box argument
24 because we all have the opportunity, particularly, Mr.
25 MacBeth, to find out what happened and he didn't want

1 bslk

2 to know.

3 There is nothing else that I can relaly say
4 to you. I think that everything I have said to you has
5 been really superfluous. You have been here, the case is
6 recent. You are certainly capable of judging the witnesses.

7 You saw the testimony of Morris Brooks, you
8 saw Mr. David Hardoon. You saw Rabbi Rosenblatt.

9 I think your common sense and good judgment
10 can make a determination here, and I submit to you that
11 there is no basis that this human being can be con-
12 victed beyond a reasonable doubt of a serious crime on
13 such testimony.

14 I thank you very much for your kind patience
15 and attention. I hope I have not overstayed my welcome
16 and I now place the defendant's future in your hands.

17 Thank you very much.

18 THE COURT: Thank you, Mr. Goldman.

19 Mr. MacBeth.

20 MR. MacBETH: Ladies and gentlemen of the
21 jury: I first respond to Mr. Goldman's suggestion about
22 objections I have made in the course of the trial. I
23 have tried to keep them within bound, and I have tried
24 to direct your attention to what matters here. What
25 matters here is the agreement Mr. Rosenblatt made with

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2 Mr. Broos, the fact that he took money, and how they
3 went about doing it.

4 It is irrelevant whether you steal the money
5 for charity or whether you enter into a scheme to de-
6 fraud to gamble.

7 That is why I made those objections.

8 It does not matter two cents what you use
9 the money for when you are defrauding the government to
10 get it.

11 Now, Mr. Goldman in his summation really
12 tried to do two things. One, he has tried to try Morris
13 Brooks in this case. That is not surprising. You know
14 the ways in which Brooks is an easy target. He has made
15 a clean breast of what he did, he has laid it out in
16 front of you.

17 But Mr. Goldman has not talked to you about
18 some things at all, the chief one, this despicable
19 character that he has described to you, is the
20 spontaneous generosity he would have you believe Morris
21 Brooks showed toward the Rabbinical College of Queens.

22 Somehow out of nothing but good feeling Morris
23 Brooks was willing to give up \$1,000 here, a \$1,000
24 there, \$3,000 on another occasion, just spontaneous
25 generosity, and there is no other explanatior offered to

1 bslk

2 that. That does not fit in one iota with the whole
3 picture of Morris Brooks' character that Mr. Goldman has
4 tried to paint for you.

5 But what does fit together in Morris Brooks'
6 character is the story Morris Brooks told you from the
7 stand, that Mr. Rosenblatt knew he was entering into an
8 agreement with Brooks, they were defrauding the govern-
9 ment and then they were splitting the proceeds. Brooks
10 was taking ten per cent, Mr. Rosenblatt -- excuse me,
11 Mr. Brooks was taking nineteen per cent, Mr. Rosenblatt
12 was taking ten percent. That makes sense out of
13 everything that went on there.

14 There isn't some great hole in the story where
15 suddenly Morris Brooks flips around from being somebody
16 engaged in criminal conspiracy, and doing his best to
17 make that work, to suddenly lavishing money on all sides.

18 It is that consistent story of Brooks'
19 character that makes sense and it makes testimony that
20 he gave, the corroborating testimony that you heard --
21 it corroborates what he said, the story that common
22 sense shows happened.

23 Now, Mr. Goldman would have you believe that
24 the Government says that only \$6,000 went into Mr.
25 Rosenblatt's pocket. I emphasize that for the obvious

1 bslk

2 reason that even Mr. Rosenblatt agrees with that. You
3 can take even what he says, and he has got so much money
4 out of this that it is incomprehensible, unless you
5 believe Brooks. The evidence in fact supports Brooks
6 all the way down the line. Brooks gives you an account of
7 it and makes sense throughout. Rosenblatt does not do
8 that.

9 You are right in finding that what you heard
10 from the witness stand from Brooks is the truth and what
11 you heard from the witness stand from Rosenblatt is a
12 fabrication.

13 The other major line that Mr. Goldman took
14 in his summation was to attack David Hardoon. I invite
15 you there to simply go back and remember that man on the
16 stand. Remember the direct examination of him and the
17 cross-examination of him.

18 Ask yourself whether that man is lying. He
19 has donated hours of unpaid labor to Mr. Rosenblatt's
20 ventures; he has been friendly with Brooks over the years
21 and with Brooks' kids, he does not abandon people. He
22 is a decent man.

23 I do not think there was anything he said from
24 that stand that would lead you to believe that he is
25 anything but a decent man. He went to the Rabbi twice

1 bslk

2 when he thought things were bad, precisely because he
3 was a decent man. He went and he told him that he thought
4 his own nephew was ripping him off. We have had no
5 denial of that from the stand. He went to him about this
6 very scheme here, as he smelled something, and what
7 happened? He was cut off with a story about Dolly.

8 Mr. Goldman would have you believe that there
9 is no significance to its being Dalis or Dolly at that
10 time. The obvious point is that the first Dalis check
11 came in at the end of December, went into the bank, and
12 the money came out at the beginning of January.

13 Haroon remembers this happening in December
14 or January. The obvious reference that he gets from Mr.
15 Rosenblatt is the check that Mr. Rosenblatt has had in
16 hands for the past three days, it is the first thing
17 that springs to his mind, I know Dally, it is okay. If
18 I know the payee, of course the bank will cash it, I
19 am only negotiating it for him, everything is all right.
20 That is why he comes up with that fabrication to Har-
21 doon.

22 Haroon remembers it probably because it is a
23 very strange thing to say, on top of which when he is
24 really trying to approach Mr. Rosenblatt about something
25 that he thinks smells, Rosenblatt cuts him off. The

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2 case was closed. That is what Hardoon said a couple of
3 times, the case was closed, and he said that it was
4 Rosenblatt who closed it. Rosenblatt didn't want to go
5 into that, he didn't want to go into explanations. He
6 gives him a quickbye. Boom. It's over. You do that
7 because you don't want people looking into it. You want
8 to brush it off and hope nobody remembers it.

9 Mr. Goldman, too, has placed a great deal of
10 emphasis on Mr. Rosenblatt's character and background.
11 Remember above all the facts in the case, that is what
12 you really have to devote yourself to here. It is not
13 whether in the past, in the last 20 or 30 years Mr.
14 Rosenblatt has committed a crime or has acted properly;
15 the Government is not charging him with that. He is
16 charged with committing this crime, entering into this
17 fraudulent agreement with Mr. Rosenblatt to which they
18 both took a great deal of money. That is what you have
19 to concern yourself with, did he do that? If he did,
20 the sea of evidence from Brooks, Rankel, Hardoon, the
21 paper, the fabrication you got from Rosenblatt himself
22 this morning, when you see allof that together you see
23 that he did commit the crime, that is what counts.

24 That is what counts, not for the last 20
25 years he has been a decent upright man. The Government

1 bs'k

2 does not challenge that. The Government is asking you
3 to look at him. This case is about what happened to
4 those checks from Mr. Morris Brooks.

5 Keep your eye right on the ball. Think about
6 what the evidence is and that issue, the real issue in
7 this trial. Do that seriously and carefully, and you
8 will see Rosenblatt and Brooks came to an understanding,
9 an agreement, not a written one, but they both knew what
10 was going on, they knew that Brooks was getting these
11 checks. Rosenblatt himself said that in connection with
12 his Post Office job here in Manhattan, he was getting
13 those checks, Rosenblatt was getting his cut, they were
14 dealing in cash, they were dealing in checks --

15 MR. GOLDMAN: Your Honor, I object to that.
16 The Government has conceded that Rabbi Rosenblatt did
17 not know anything about the obtaining of those checks.
18 That is improper.

19 MR. MacBETH: I am referring to Mr. Rosen-
20 blatt's own testimony that these checks were connected
21 to the Post Office not being able to print the "i-n-c"
22 on them --

23 MR. GOLDMAN: It was not the Post Office, it
24 was the Government.

25 MR. MacBETH: I am not suggesting that Mr.

1 bslk

2 Rosenblatt knew that they were stolen, but that he knew
3 that they were connected with Brooks, and he knew Brooks
4 was in the Post Office.

5 Go back over that testimony and you will
6 see everywhere from all the witnesses, from all the
7 evidence that it points to the agreement that Mr. Rosen-
8 blatt is charged with here. It is not written out, a
9 conspiracy never is, but it is understood on both sides.
10 Rosenblatt knows what he is getting his cut of the
11 cash, yes, he gets \$1,000, or \$3,000 to cash a check. It
12 isn't the generosity of Morris Brooks, it is because
13 he knows it is a fraudulent deal.

14 He knows that he is in it with Brooks and
15 they are ripping the Government off. That is what the
16 evidence shows in this case.

17 Go into the jury room, think about it
18 hard, look at everything you have heard here and seen,
19 use your common sense, put aside anything that is outside
20 this case, forget about trying to try Morris Brooks
21 again, he has got his sentence coming to him, there is no
22 question about that, and get down to the facts of this
23 case, and when you look at the facts of this case, the
24 Government is confident that you will find beyond any
25 reasonable doubt that Elyakim Rosenblatt is guilty as

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2 charged. Thank you.

3 THE COURT: All right. Thank you, Mr. Mac-
4 Beth.

5 At this time we will take a recess, after
6 which the Court will charge the jury, and after which the
7 jurors will begin their deliberations.

8 The jury is excused now for a few moments.

9 (Jury excused.)

10 THE COURT: We will take a brief recess.

11 (Recess.)

End 5

12
13 (continued on next page.)
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Chg. 8/12/76¹
USA V.
Rosenblatt²
76 Cr. 142
Motley³

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(In open court, jury present.)

THE COURT: Ladies and gentlemen, before formally beginning the charge, I want to thank you for your patience and for the careful attention which you have given to the testimony and other evidence as it has come in. I trust that you will bear with me now and give me that same degree of attention which you have given throughout the trial, so that you may carefully understand the legal principles which you are to apply to the facts in this case as you find them.

Now, before formally beginning the charge, also, I would like to thank counsel on both sides for their cooperation with the court and to congratulate each of them on the high degree of professional skill which each has demonstrated throughout the trial.

Now, ladies and gentlemen, as you approach the performance of your function in this case, that is, the determination of the guilt or innocence of this defendant, please remember that it is your duty to weigh the evidence calmly and dispassionately, without sympathy or prejudice for or against either the government of the defendant.

Now, you must bear in mind something that I believe I mentioned earlier when the trial commenced that every defendant appearing before this court is entitled

1 jpjb 2

2 to a fair and impartial trial, regardless of his occupa-
3 tion or station in life.

4 Now, the fact that the government is a party
5 here and the prosecution is brought in the name of the
6 United States of America entitles it to no greater con-
7 sideration than that accorded to any other party to a
8 litigation. By the same token, it is entitled to no less
9 consideration. That's because, as I told you initially,
10 all parties, government and individuals alike, stand equal
11 before the law.

12 Now, my function is to instruct you as to the
13 law applicable to this case and you should accept the law
14 as I state it to you in these instructions and apply it
15 to the facts as you find them. The logical result of that
16 application is a verdict in the case which must be returned
17 by you as to the one count in this indictment. That ver-
18 dict must be either guilty or not guilty.

19 Now, I want to caution you that you are not to
20 single out any one instruction alone as stating the law,
21 but you must consider these instructions as a whole. You
22 are not to assume that I have any opinion as to the guilt
23 or innocence of this defendant or the truth or falsity of
24 the charge made against him. The fact that I have denied
25 motions or granted motions in the course of the trial is

1 jpjb 3

2 not to be taken by you as any indication that the defen-
3 dant is believed by the court to be guilty or not guilty,
4 or that the charges are true or false. My rulings on
5 these matters, as I told you initially, had to do with
6 questions of law and not questions of fact which you, the
7 jury, are now about to determine. It is for the jury to
8 determine whether the defendant is guilty or not guilty.
9 It is not the function of the court to determine the guilt
10 or innocence of a defendant in a jury case. But, it is
11 the function of the court to instruct you as to the law
12 which you are to apply to the facts in this case as you
13 find them.

14 Now, if during the course of the trial a ques-
15 tion was asked and an objection interposed and I sustained
16 the objection, you are to disregard the question and any
17 alleged facts contained in that question. Similarly, if
18 I ruled that an answer be stricken from the record, you are
19 to disregard both the question and the answer in your
20 deliberation.

21 Now, the fact that I may refer to some of the
22 testimony or some of the exhibits during the course of
23 these instructions, does not mean that I think that that
24 is the only evidence you should consider as the most
25 important evidence. In deciding the guilt or innocence

1 jpjb 4

2 of this defendant, you must consider all the testimony in
3 this case, both direct and cross examination. You must
4 consider all the exhibits and any stipulations as to cer-
5 tain facts which the lawyers have entered into.

6 Now, as jurors, you are the sole and exclusive
7 judges of the facts. This means that you pass upon the
8 weight of the evidence. It also means that you determine
9 the credibility or the believability of the witnesses who
10 testified here before you. It means also that you resolve
11 such conflicts as there may be in the evidence. Finally,
12 it means that you draw such reasonable inferences as may
13 be warranted by the testimony and exhibits and other evi-
14 dence in the case.

15 Again, with respect to any matter of fact, it is
16 your recollection and yours alone which governs. Anything
17 that counsel for the government may have said, anything
18 which counsel for the defendant may have said or anything
19 which I may have said is not to be substituted by you in
20 lieu of your own independent recollection of what the
21 evidence is or what the evidence discloses.

22 Now, your verdict in this case is to be based
23 solely upon the evidence. Once again, the evidence in
24 this case consists of the testimony which you heard from
25 all of the witnesses, the stipulations as to any facts

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which the lawyers may have agreed upon and the exhibits which were actually received in evidence and nothing else. Your verdict, of course, must be a unanimous verdict and must be either guilty or not guilty.

Now, as I told you you as jurors are the sole judges of the credibility of the witnesses who testified here and the weight that their testimony deserves. You know, of course, that there is no automatic way to decide who is telling the truth and who is not. Credibility may be equated with believability and reliability. If a witness is credible, you say he is believable and reliable. If he is incredible, you say he is unbelievable. There is nothing mysterious about these words.

Now, by what yardstick are you to judge the credibility of the witnesses? Each of you has given careful attention to the testimony as it came from the witnesses themselves. You observed the witnesses. Issues of fact are presented for your determination. To a large extent, the resolution of the disputed facts depend upon the credibility which you as a juror attribute to the testimony of the various witnesses and the support or lack of support each witness received from other evidence in the case.

Now, your duty is to decide the disputed issues

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of fact. In doing so, you use your logic, your reason and your common sense. Do not be side-tracked or diverted or distracted by what you consider to be a minor or insignificant detail or irrelevance, or by what you consider to be an appeal not to your reason or logic, but to mere sentimentality or unthinking passion. I repeat, use your common sense. You should carefully scrutinize all the testimony given, both direct and cross examination. The circumstances under which each witness has testified and every matter in evidence which tends to show whether a witness is worthy of belief. Consider each witness' intelligence, motive and state of mind and demeanor and manner while on the witness stand. Consider the witness' ability to observe the matters as to which he has testified and whether he impresses you as having an accurate recollection of these matters. Consider also any relation each witness may bear to either side of the case, the manner in which each witness might be affected by the verdict and the extent to which, if at all, each witness is either supported or contradicted by other evidence in the case.

Now, inconsistencies or discrepancies in the testimony of a witness or between the testimony of different witnesses may or may not cause the jury to discredit

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such testimony. Two or more persons witnessing an incident or a transaction may see or hear it differently. An innocent recollection like failure of recollection is not an uncommon experience. In weighing the effect of a discrepancy, always consider whether it pertains to a matter of importance or an unimportant detail and whether the discrepancy results from innocent error or intentional falsehood. In determining credibility and weight to be given to the testimony of any witness, you must give equal consideration to the testimony of the government's witnesses. The mere fact that a witness may have been employed by the government entitles him to no more and no less consideration than any other witness. Nor should you be influenced by the number of witnesses a side has called or the number of documents received in evidence, because it is the quality of the testimony and other evidence which counts and not the quantity. After making your own judgment, you will give the testimony of each witness such credibility, if any, as you think it deserves.

If you find that any witness, and this applies to all witnesses who testified here, has willfully testified falsely as to any material matter, you may reject the entire testimony of that witness or you may accept such part or portion as commends itself to your belief or which

1 jpjb 8

2 you find corroborated by other evidence in the case.

3 The law does not compel a defendant in a crimi-
4 nal case to take the witness stand and testify. No
5 presumption of guilt may be raised and no inference of
6 any kind may be drawn from the failure of a defendant to
7 testify. However, a defendant who wishes to testify may
8 do so and is a competent witness. The defendant's tes-
9 timony is to be judged in the same way as that of any other
10 witness.

11 During the course of this trial, you have heard
12 the testimony of Morris Brooks, a person who testified con-
13 cerning his own involvement in the crime charged in the
14 indictment against this defendant. Morris Brooks is there-
15 fore, what we call an accomplice. Under the law, in order
16 for one to be an accomplice, he must have been involved in
17 the commission of the crime charged. He must be a par-
18 ticipant in that crime. An accomplice does not become in-
19 competent as a witness because of his participation in the
20 criminal act charged. His testimony is not to be rejected
21 unless the jury thinks it has no weight. Like any other
22 testimony, it is to be considered and dealt with by the
23 12 men and women who are the triers of the facts. Such
24 evidence is properly considered with care and scrutiny,
25 checked up with the other facts in the case and given

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appropriate weight. The testimony of an accomplice alone, if believed by you beyond a reasonable doubt, may be of sufficient weight to sustain a verdict of guilt even though it is not corroborated or supported by other evidence in the case. You should keep in mind that the testimony of an accomplice is always to be received with caution and weighed with great care.

You are instructed that in weighing the testimony of government witnesses charged as co-conspirators in this indictment, you may take into account any motive that witness may have in testifying for the government. Again, the witness, Morris Brooks, has pleaded guilty to two charges. The charge in this indictment and another case. He has not yet been sentenced. These factors do not disqualify him as a witness, but they may well affect the weight you give his testimony in adjudging the guilt or innocence of this defendant.

Now, Morris Brooks, as a defendant in this case, has already pleaded guilty and is awaiting sentence. The fact that Morris Brooks has pleaded guilty, however, is not proof or evidence that the defendant now on trial, Elyakim Rosenblatt, is also guilty. You must remember that guilt is personal and that the guilt or innocence of the defendant now on trial must be determined by you on

1 jpjb 10

2 the basis of the evidence adduced here at this trial, which
3 includes, as I have said, all of the testimony and exhibits
4 and stipulations. The guilt of one person, therefore, is
5 never to be predicated even in part on the fact that some-
6 body else has already pleaded guilty.

7 Morris Brooks has testified as a witness for the
8 government. As I instructed you, he's also an accomplice,
9 that is a participant in the crime charged. His testimony
10 is therefore to be scrutinized with great care. The fact
11 that he's an accomplice as I have previously told you, does
12 not disqualify him as a witness.

13 Now, the reason you are here, as you well know,
14 is that the defendant has entered a plea of not guilty to
15 the charge made against him in the indictment by the grand
16 jury. As a result, a trial jury or petit jury such as
17 yourselves, is now called upon to determine the guilt or
18 innocence of the defendant. Now, if the defendant is to
19 be convicted, as I told you repeatedly, the government has
20 the burden of proving that this defendant is guilty as
21 charged beyond a reasonable doubt. It is a burden that
22 never shifts. It remains upon the government throughout
23 the entire trial. A defendant under our system does not
24 have to prove that he is innocent. On the contrary, he
25 is presumed to be innocent of the accusations contained in

1 jpjb 11

2 the indictment. This presumption of innocence, as I told
3 you, was in his favor when this trial started and continued
4 in his favor throughout the trial. This presumption of
5 innocence is in his favor even as I instruct you now. It
6 remains in his favor during the course of your delibera-
7 tions in the jury room. Now, this presumption of inno-
8 cence is removed only if and when, after your deliberations
9 in the jury room, you come to the conclusion that the
10 government has sustained its burden of proof. That is
11 to prove the defendant guilty as charged beyond a reason-
12 able doubt.

13 Now, the question which naturally comes up, is,
14 what is a reasonable doubt? The words almost define them-
15 selves. Reasonable doubt is a doubt founded in reason
16 and arising out of the evidence in the case or the lack
17 of evidence. It is a doubt which a reasonable person has
18 after carefully weighing all the evidence, the kind of
19 doubt which would make one hesitate to act. It means that
20 doubt that is substantial and not merely shadowy. Reason-
21 able doubt is one which appeals to your reason, your judg-
22 ment, your common sense and your experiences in life.
23 It is not caprice, whim or speculation. It is not an
24 excuse to avoid the performance of an unpleasant duty.
25 It is not sympathy for a defendant.

1 jpjb 12

2 Now, if, after a fair and impartial considera-
3 tion of all the evidence, you can candidly and honestly
4 say that you are not satisfied of the guilt of this defen-
5 dant and that you do not have an abiding conviction of this
6 defendant's guilt, such a conviction as you would be will-
7 ing to act upon unhesitatingly in an important and weighty
8 matter in the personal affairs of your own life, then you
9 have a reasonable doubt. In that circumstance, it is your
10 duty to acquit this defendant. That is to find this
11 defendant not guilty.

12 On the other hand, if after such a fair and
13 impartial consideration of all the evidence, you can
14 candidly and honestly say that you are satisfied of the
15 guilt of this defendant, that you do have an abiding con-
16 viction as to this defendant's guilt, such a conviction
17 as you would be willing to act upon unhesitatingly in
18 an important weighty matter of the personal affairs of
19 your own life, then you have no reasonable doubt and in
20 that circumstance you may convict the defendant.

21 A reasonable doubt does not mean a positive
22 certainty or beyond all possible doubt. It is practically
23 impossible for a person to be absolutely and completely
24 convinced as to any fact, any controverted fact, which by
25 its nature, is not susceptible to mathematical certainty.

jpjb 13

In accordance, the law in a criminal case is that it is sufficient, if the guilt of a defendant is established beyond a reasonable doubt, not beyond all possible doubt.

I want to say a word about the kind of evidence which we recognize and accept in courts of justice.

Now, one class of evidence is called direct evidence.

The other is called circumstantial evidence.

Direct evidence is evidence which tends to show the fact in dispute without need for any other amplification. Although, of course, there is always a question whether that evidence is to be believed. Circumstantial evidence, on the other hand, tends to show other facts from which the fact in dispute may reasonably be inferred. It is that evidence which tends to prove the fact in issue by proof of other facts which have a legitimate tendency to lead the jury to infer that the facts sought to be proved were the facts sought to be proven as true. In other words, circumstantial evidence consists of facts proved from which the jury may infer by a process of recollection other facts in dispute.

(Continued on next page.)

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2 It is not necessary, for example, that the par-
3 ticipation of a defendant be shown by direct evidence.
4 The defendant's connection to a crime may be inferred from
5 such facts and circumstances in evidence, as would legi-
6 mately tend to support such an inference.

7 Knowledge and willfulness and intent of a defen-
8 dant need not be proved by direct evidence. Like any
9 other fact in issue, it may be established by circum-
10 stantial evidence.

11 In every criminal case it is necessary for the
12 government to prove beyond a reasonable doubt that defen-
13 dant on trial had the necessary knowledge, willfulness
14 and intent.

15 Questions concerning a defendant's knowledge
16 and willfulness and intent involve proof of a defendant's
17 state of mind at the time of the alleged crime.

18 It is obviously impossible to prove directly
19 the operation of a person's mind because you cannot look
20 into a person's mind and see what his or her intentions
21 are or were.

22 But the proof of the circumstances surrounding
23 a defendant's activities may well supply an adequate and
24 convincing basis for finding that a defendant acted know-
25 ingly, willfully and intentionally.

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2 In other words, the actions of a defendant
3 must be judged in their time and place, just as the full
4 meaning of a word is commonly understood only in relation
5 to other words in a sentence or its context.

6 So the meaning of a particular act or
7 conduct may depend upon the circumstances surrounding
8 that act or conduct on the part of a defendant.

9 In determining the issue of knowledge,
10 wilfulness and intent, you are entitled to consider any
11 statements made by the defendant which are in evidence and
12 any acts done by the accused which are in evidence, and
13 all other facts and circumstances in evidence, which may
14 aid you in determining the defendant's state of mind.

15 You may consider such things as the defendant's
16 age, his background, his occupation and experience, and
17 whether such facts make it likely or unlikely, probable
18 or improbable, that a defendant fully and precisely
19 understood what he was doing in regard to a transaction,
20 and where relevant in relation to others.

21 There has been testimony here as to the
22 previous good character of this defendant. You should
23 consider such evidence of reputation together with all
24 of the other facts, and all of the other evidence in the
25 case, in determining the guilt or innocence of the

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2 defendant.

3 Evidence of a defendant's reputation as to
4 good character, or as to those traits of character
5 ordinarily involved in the commission of the crime charged,
6 may give rise to a reasonable doubt since the jury may
7 think it improbable that a person of good character in
8 respect to these traits would commit such a crime.

9 But if, on all the evidence, you are satisfied
10 beyond a reasonable doubt that the defendant is guilty,
11 a showing that he previously enjoyed a reputation for good
12 character does not justify or excuse the offense, and you
13 should not acquit him merely because you believe he is a
14 person of good repute.

15 As I told you when you were being selected
16 and before the trial commenced, an indictment is not
17 proof or evidence. It is merely a charge; that is, an
18 accusation.

19 An indictment is a technique or method or
20 procedure which we employ in our system whereby, as I have
21 said, a person is accused by a grand jury of a crime or
22 crimes and then that person is brought into court where
23 his guilt or innocence is determined by a trial jury.
24 Therefore, the indictment, which I am about to read to you,
25 has no evidentiary value, and it should not be considered

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2 by you as proving or tending to prove anything charged
3 therein.

4 As I've told you, th. government has the burden
5 of proving the charge, which is made in the indictment,
6 beyond a reasonable doubt.

7 I am going to read the indictment to you and
8 then I am going to tell you what the essential elements
9 of the crime of conspiracy are, as charged here, that you
10 must find that the government has established or proved
11 beyond a reasonable doubt. And then I am going to discuss
12 those elements in greater detail.

13 The indictment reads as follows:

14 "The grand jury charges:

15 "From on or about July 1, 1974, and continually
16 thereafter up to and including the date of the filing of
17 this indictment, in the Southern District of New York
18 and elsewhere, Morris D. Brooks and Elyakim G. Rosenblatt,
19 the defendants, unlawfully, wilfully and knowingly
20 combined, conspired, confederated and agreed together
21 and with each other, to defraud the United States.

22 "From on or about July 1, 1974 until on or
23 about December 12, 1974, Morris D. Brooks, the defendant,
24 was an employee of the United States Postal Service working
25 in the accounts payable section of the Postal Service's

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2 New York Postal Data Center.

3 "At all times material to this indictment,
4 Elyakim G. Rosenblatt, the defendant, controlled the bank
5 account of the Rabbinical College of Queens.

6 "Among the means by which the defendants
7 would and did carry out the conspiracy were the following:

8 "From approximately in or about July 1974 to
9 in or about July 1975, on eight separate occasions,
10 Morris D. Brooks, the defendant, made false entries in the
11 accounts of the Postal Service, which entries resulted in
12 the issuing of eight checks drawn on the Treasurer of the
13 United States for a total of approximately \$183,509.30, all
14 of which were recorded as payments in accounts which Morris
15 D. Brooks, the defendant, had falsified.

16 "From in or about July 1974 to in or about
17 August 1975, Morris D. Brooks, the defendant, obtained
18 possession of the eight checks issued as a result of his
19 having made false entries, and he endorsed the name of the
20 payee on each check.

21 "Beginning in or about July 1974 and on
22 numerous occasions thereafter, Morris D. Brooks, the
23 defendant, discussed the cashing of the checks with
24 Elyakim G. Rosenblatt, the defendant, telling him that
25 the payee didn't wish to have the checks pass through

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their accounts for various nefarious reasons, including, but not limited to, attempting to evade the payment of federal taxes by the payees.

"Thereafter, pursuant to an agreement with Morris D. Brooks, the defendant, Elyakim G. Rosenblatt, the defendant, did deposit each check into the account of the Rabbinical College of Queens, and pay Morris D. Brooks, the defendant, approximately 90 percent of the face amount of each check, retaining approximately 10 percent for himself."

Now the indictment goes on to enumerate the various overt acts charged, but I am going to leave that portion of the indictment until I reach a discussion of overt acts in greater detail.

As you can see, the defendant here is charged with conspiring to defraud the United States. That's the charge. Now, conspiracy to defraud the United States is made a crime by virtue of a federal statute, and that statute is found in Title 18, United States Code, Section 371, which reads as follows:

"If two or more persons conspire either to commit any offense against the United States or to defraud the United States, or any agency thereof, in any manner or for any purpose, and one or more of such persons do any

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2 act to effect the object of the conspiracy, each is
3 guilty of a crime."

4 Now, again, as you know, the defendant is
5 presumed innocent of the charge made against him in this
6 indictment; therefore, before you can find him guilty of
7 the charge you must be convinced that the government has
8 carried its burden of proof, and that is to prove that this
9 defendant is guilty of conspiring to defraud the United
10 States beyond a reasonable doubt.

11 In this connection, the government must prove
12 beyond a reasonable doubt each of the essential elements
13 of the crime charged, which are as follows:

14 First, the government must prove that this
15 defendant now on trial and Morris Brooks had an agreement
16 or understanding between themselves regarding the cashing
17 of the eight government checks in evidence.

18 Second, the government must prove that the
19 objective of the agreement or understanding was to defraud
20 the United States.

21 Third, the government must prove that this
22 defendant, who is now on trial, knowingly and wilfully
23 entered into an agreement with Morris Brooks to defraud
24 the United States.

25 Fourth, it must prove that at least one of the

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2 overt acts alleged in the indictment, which I will read
3 to you, was in fact committed by Morris Brooks here in
4 Manhattan, and that that particular overt act was
5 knowingly committed by Brooks in furtherance of the
6 agreement, or understanding, which Brooks had with this
7 defendant to defraud the United States.

8 If you find that the government has failed
9 to prove any one of these four essential elements of the
10 charge of conspiracy to defraud the United States, then
11 it is your duty to acquit this defendant; that is, find
12 him not guilty.

13 If, on the other hand, you find that the
14 government has sustained its burden of proof as to each of
15 these four elements, then you may convict this defendant;
16 that is, you may find him guilty as charged.

17 Now, with respect to these four elements, there
18 are some words which I shall define for you. The first
19 is the word "defraud."

20 "Defraud" means to interfere with the lawful
21 function of the federal government, or the lawful functions
22 of the federal government, by deceit, craft or trickery,
23 or by means that are dishonest.

24 Among the lawful functions of the federal
25 government involved in this case are the contracts between

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2 the government and various individuals whereby various
3 individuals render services to the government for which
4 government checks are issued in payment.

5 Another lawful function of the federal
6 government alleged to be involved in this case is the
7 collection of taxes due it from income earned by various
8 individuals.

9 This conspiracy statute makes it a crime to
10 interfere in any of these lawful functions by deceit,
11 craft or trickery, or by means that are dishonest.

12 Consequently, anyone who knowingly agrees to
13 participate in any scheme or manner of doing business
14 whereby the United States government or any agency thereof
15 is deceived or misled with respect to any of its lawful
16 functions is guilty of a crime.

17 Therefore, before you can convict this
18 defendant, Elyakim Rosenblatt, of the crime charged here,
19 you must be satisfied beyond a reasonable doubt that he
20 knew that by cashing the eight checks in evidence for
21 Morris Brooks the federal government would be somehow
22 deceived, misled or duped into believing certain facts
23 which were not really true.

24 You must also find that this defendant now on
25 trial, and Morris Brooks, both understood that somehow

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2 the federal government would be misled, deceived or duped.

3 The next words I wish to define for you are
4 the words "unlawfully, wilfully and knowingly."

5 In order to convict a defendant on any count,
6 or this defendant on this particular count, you must
7 find beyond a reasonable doubt that he acted unlawfully,
8 knowingly and wilfully.

9 "Unlawfully" obviously means contrary to law.
10 An act is done knowingly if it is done voluntarily and
11 purposefully and not because of mistake, accident, mere
12 negligence or any other innocent reason.

13 An act is done wilfully if it is done knowingly,
14 deliberately, intentionally, and with an evil motive or
15 purpose.

16 In determining whether a defendant has acted
17 wilfully, it is not necessary for the government to
18 establish that the defendant knew that he was breaking any
19 particular law or any particular rule. It must, however,
20 prove a bad purpose or motive on the part of a defendant.

21 Knowledge and wilfulness and intent of a
22 defendant, as I have said before, cannot be proved by
23 direct evidence. Like any other fact in issue, it may be
24 established by circumstantial evidence.

25 What is a conspiracy? A conspiracy is a

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2 collective criminal agreement, a partnership in crime.

3 A conspiracy presents a greater potential threat to
4 government and society than acts committed by a lone
5 wrongdoer.

6 That is why the Congress has made conspiracy
7 to violate a federal statute or to defraud the United
8 States a separate crime.

9 Concerted action for criminal purposes often,
10 if not normally, makes possible the attainment of ends
11 more complex than those which an individual acting alone
12 could accomplish.

13 The gist of the crime of conspiracy is an
14 agreement. And as I told you, one of the elements of this
15 crime is that the conspirators, in this case Brooks and
16 the defendant, agreed to perform an illegal act, and that
17 is, to defraud the United States.

18 The agreement alleged in this case, as I have
19 said, is one to defraud the United States.

20 The defendant is not charged with conspiring
21 to cash checks or take a percentage of checks that may
22 have been cashed. Those acts aren't illegal or unlawful,
23 and one who does them, even if he agrees or conspires
24 with another to do them, is not guilty of a crime.

25 It is only if you find that the defendant

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2 agreed to defraud the United States in connection therewith
3 that you may find this element of the crime charged to have
4 been proved.

5 Continuing with the discussion of conspiracy,
6 or the instruction regarding conspiracy:

7 To establish a conspiracy, the government is
8 not required to prove that two or more persons sat around
9 a table and came to a solemn compact orally or in
10 writing stating that they have formed a conspiracy to
11 defraud the United States, setting forth details of the
12 plan, the means by which the unlawful project is to be
13 carried out, or the part to be played by each co-conspirator.

14 Indeed, it would be extraordinary if there
15 were such a formal agreement or specific oral statement.
16 Your common sense will tell you that when men in fact
17 undertake to enter into a criminal conspiracy, much is
18 left to unexpressed understanding.

19 Conspirators do not usually reduce their
20 agreements to writing or acknowledge them before a notary
21 public, nor do they publicly broadcast their plans.
22 From its very nature, a conspiracy is almost invariably
23 secret in its origin and execution.

24 Therefore, it is sufficient if you find
25 that the two defendants in this case as alleged in any

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2 manner, through any contrivance, impliedly or tacitly,
3 came to a common understanding to defraud the United
4 States.

5 Express language or specific words aren't
6 required to indicate assent or attachment to a conspiracy,
7 nor is it required to find that there was any written and
8 express agreement, as I have said.

9 In determining whether there has been an unlawful
10 conspiracy or agreement as alleged here, you may judge
11 acts and conduct of the alleged co-conspirators which are
12 done to carry out an apparently criminal purpose.

13 The old adage, "Actions speak louder than
14 words," is applicable here. Usually the only evidence
15 available of a conspiracy is that of disconnected acts
16 which, however, when taken together in connection with
17 each other show a conspiracy to secure a particular result
18 as certainly and conclusively as more direct proof.
19 Proof concerning the accomplishment of the objective of
20 the conspiracy may be the most persuasive evidence of the
21 existence of the conspiracy itself if you find that the
22 venture was successful.

23 In determining whether the conspiracy charged
24 in this indictment actually existed, you may consider
25 the evidence of the acts and the conduct of the two

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2 alleged conspirators as a whole, and the reasonable
3 inferences to be drawn from such evidence.

4 If upon such consideration of all the evidence
5 you find beyond a reasonable doubt that the minds of the
6 alleged conspirators met in an understanding way, and
7 that they agreed, as I have explained a conspiratorial
8 agreement to you, to work together to defraud the United
9 States, then proof of the existence of the conspiracy is
10 complete.

11 While the indictment charges that the
12 conspiracy began on or about July 1, 1974, and continued
13 to February 10, 1976, the date on which the indictment
14 here was filed, it is not essential that the government
15 prove that the conspiracy started and ended on those
16 specific dates. It is sufficient if you find that in
17 fact a conspiracy was formed and existed for some
18 substantial time within the period set forth in the
19 indictment and that at least one of the overt acts was
20 committed in furtherance of the conspiracy during that
21 period.

22 An overt act, which you may find did occur,
23 need not have occurred on a specific date, or the specific
24 date set forth in the indictment. You need only find that
25 it occurred no earlier than July 1, 1974, and no later than

1 bsas28

2 February 10, 1976.

3 As I told you, the indictment charges that the
4 conspiracy here had as its objective to defraud the
5 United States, and it is essential that the government
6 prove beyond a reasonable doubt that this was the objective
7 of the conspiracy, the objective of the agreement between
8 these two parties, and that is, it must prove that it was
9 the purpose of their agreement to defraud the United States.

10 If you find that a conspiracy as charged did
11 exist and that its purpose was to defraud the United
12 States, you must, as I have said, find beyond a reasonable
13 doubt that this defendant was a party to that agreement;
14 that he participated in it with knowledge of its unlawful
15 purpose, and in furtherance of its unlawful objectives.

16 A defendant's participation in a conspiracy,
17 like its existence, can be inferred from such facts and
18 circumstances in evidence as would logically sustain that
19 inference.

20 I want to caution you, however, that mere
21 association of one defendant with an alleged conspirator
22 does not establish his participation in the conspiracy
23 if you find that one did exist.

24 So, too, mere knowledge by a defendant of
25 the conspiracy, or any illegal act on the part of an

1 bsas29

2 alleged co-conspirator, is not sufficient evidence to
3 establish the defendant's membership in the conspiracy.
4 You must find, as I have said, actual knowing participa-
5 tion by this defendant in the agreement to defraud the
6 United States.

7 Once you are satisfied beyond a reasonable
8 doubt that a conspiracy as alleged existed, and that this
9 defendant was a member of it, any acts and declarations
10 of any other person whom you find was also a member of the
11 conspiracy, as alleged in the indictment, may, during its
12 pendency, and in furtherance of its objectives, are
13 considered the acts and declarations of this defendant
14 even though this defendant was not present at the time,
15 or did not know such statements were made or such acts
16 were done in furtherance of the conspiracy.

17 In other words, every co-conspirator is fully
18 responsible for what every other co-conspirator does in
19 furtherance of the conspiracy, whether he knows about it
20 or not, and whether he specifically approves of it or not.

21 Now we come to the fourth and final element
22 which you must find if you are to find this defendant
23 guilty of the crime of conspiring to defraud the United
24 States.

25 The offense is complete only when you find

1 bsas30

2 that an unlawful agreement to defraud the United States
3 was made and any single overt act to effect the objective
4 of the conspiracy was thereafter committed as alleged here
5 in the Southern District of New York, which includes
6 Manhattan.

7 An overt act is any step, action or conduct
8 which is taken to achieve, accomplish or further the
9 objective of the conspiracy.

10 Now, the purpose of requiring proof of an
11 overt act is that while parties might conspire and and
12 agree to do an unlawful thing, they may change their minds,
13 or even abandon the project and do nothing to carry it into
14 effect, in which event there would be no offense or crime
15 committed.

16 The government is not required to set forth
17 in the indictment each and every act on which it relies
18 to establish the conspiracy, or the defendant's participa-
19 tion therein; nor is it required to prove each overt act
20 which may have occurred during and in furtherance of the
21 conspiracy.

22 But it is required to prove that at least one
23 overt act did take place in the Southern District of
24 New York, which includes Manhattan.

25 The overt act need not be criminal in itself.

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The overt act, however, must be an act which follows and tends for the accomplishment of the objective of the conspiracy, which in this case was to defraud the United States. It must be knowingly done in furtherance of that objective.

In this indictment the grand jury charges as follows:

"In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York and elsewhere:

"1. In or about July 1974 in the Southern District of New York defendant Morris D. Brooks made false entries on a Postal Service Form 1951 resulting in the issuing of a check drawn on the Treasurer of the United States and payable to Sara Dudley Brown in the amount of \$4,500.

"2. In or about July 1974 in the Southern District of New York defendant Morris D. Brooks made false entries on a Postal Service Form 1951 resulting in the issuing of a check drawn on the Treasurer of the United States and payable to Gloria G. Brown in the amount of \$5,500.

"3. On or about July 15, 1975, in Queens

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2 County, New York, defendant Elyakim G. Rosenblatt
3 endorsed his name on the said check payable to Sara Dudley
4 Brown and thereafter deposited the said check payable to
5 Sara Dudley Brown into the account of the Rabbinical
6 College of Queens.

7 "4. On or about July 15, 1974, in Queens
8 Count, New York, defendant Elyakim G. Rosenblatt endorsed
9 his name on the said check payable to Gloria G. Brown
10 and thereafter deposited the said check payable to Gloria
11 G. Brown into the account of the Rabbinical College of
12 Queens.

13 "5. On or about October 28, 1974, in Queens
14 County, New York, defendant Elyakim G. Rosneblatt
15 endorsed a check drawn on the Treasurer of the United States
16 payable to James K. Sullivan in the amount of \$9,704.35
17 with the stamp of the Rabbinical College of Queens and
18 thereafter deposited the said check payable to James K.
19 Sullivan into the account of the Rabbinical College of
20 Queens.

21 "6. On or about December 1, 1974, in Queens
22 County, New York, defendant Elyakim G. Rosenblatt endorsed
23 a check drawn on the Treasurer of the United States payable
24 to the H. L. Dalis in the amount of \$27,204.95 with the
25 stamp of the Rabbinical College of Queens and thereafter

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2 deposited the said check payable to H. L. Dalis in the
3 amount of \$27,204.95 into the account of the Rabbinical
4 College of Queens.

5 "7. On or about January 6, 1975, in Queens
6 County, New York defendant Morris D. Brooks cashed a
7 check payable to him in the amount of \$24,200 drawn on
8 the account of the Rabbinical College of Queens and signed
9 by defendant Elyakim G. Rosenblatt.

10 "8. On or about March 18, 1975, in Queens
11 County, New York, defendant Elyakim G. Rosenblatt
12 endorsed a check drawn on the Treasurer of the United
13 States payable to H. L. Dalis in the amount of \$32,000
14 with the stamp of the Rabbinical College of Queens and
15 thereafter deposited the said check into the account of
16 the Rabbinical College of Queens.

17 "9. On or about April 29, 1975, in Queens
18 County, New York, defendant Elyakim G. Rosenblatt,
19 endorsed a check drawn on the Treasurer of the United
20 States payable to H. L. Dalis in the amount of \$24,600 with
21 the stamp of the Rabbinical College of Queens and
22 thereafter deposited the said check into the account of
23 the Rabbinical College of Queens.

24 "10. In or about July, 1975, in the Southern
25 District of New York, defendant Morris D. Brooks made false

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2 entries on a Postal Service Form 1951 resulting in the
3 issuing of a check drawn on the Treasurer of the United
4 States and payable to H. L. Dalis in the amount of \$38,500.

5 "11. In or about July 1975 in the Southern
6 District of New York, defendant Morris D. Brooks made false
7 entries on a Postal Service Form 1951 resulting in the
8 issuing of a check drawn on the Treasurer of the United
9 States payable to Frank P. Conley in the amount of \$41,500.

10 "12. On or about July 31, 1975, in Queens
11 County, New York, defendant Elyakim G. Rosenblatt endorsed
12 the said check payable to Frank P. Conley in the name of
13 the Rabbinical College of Queens and thereafter deposited
14 the said check into the account of the Rabbinical College
15 of Queens.

16 "13. On or about August 6, 1975, in Queens
17 County, New York, defendant Morris D. Brooks negotiated
18 a check payable to him in the amount of \$17,350 drawn on
19 the account of the Rabbinical College of Queens and
20 signed by defendant Elyakim G. Rosenblatt, the defendant.

21 "14. On or about August 6, 1975, in Queens
22 County, New York, defendant Morris D. Brooks negotiated
23 a check payable to him in the amount of \$12,000 drawn on
24 the account of the Rabbinical College of Queens and signed
25 by defendant Elyakim G. Rosenblatt.

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2 "15. On or about August 8, 1975, in Queens
3 County, New York, defendant Morris D. Brooks negotiated
4 a check payable to him in the amount of \$12,150 drawn on
5 the account of the Rabbinical College of Queens and
6 signed by defendant Elyakim G. Rosenblatt.

7 "16. On or about August 15, 1976, in Queens
8 County, New York, defendant Elyakim R. Rosenblatt
9 endorsed the said check payable to H. L. Dalis in the
10 amount of \$38,500 in the name of the Rabbinical College
11 of Queens and thereafter deposited the said check into
12 the account of the Rabbinical College of Queens."

13 As I have told you, one of the elements of
14 this crime which the government must prove is that an overt
15 act committed in furtherance of the conspiracy by one of
16 the conspirators took place in the Southern District of
17 New York. Manhattan is in the Southern District, but
18 Queens is not. Therefore, the government must prove that
19 at least one act that took place -- I'll read that again.
20 Therefore, the government must prove that at least one
21 act took place in Manhattan, one of these overt acts, and
22 that that is done in furtherance of the conspiracy.

23 The only testimony concerning acts that took
24 place in Manhattan was that relating to the making of false
25 entries and stealing of checks by Morris Brooks. You must

1 bsas36

2 therefore find that one of those acts was committed in
3 furtherance of the conspiracy.

4 If you find that the falsification of the
5 Postal records by Brooks, or his stealing of checks,
6 was in furtherance of the conspiracy, as I have defined
7 that term, you may find that the government has proved that
8 element of the crime charged.

9 If, however, you find that the commission of
10 those acts by Brooks was not in furtherance of the
11 conspiracy, this element will not have been proven and
12 you must acquit the defendant.

13 In sum, if you find the existence of a conspiracy
14 as alleged, that the purpose of the conspiracy was to
15 defraud the United States, and knowing participation in
16 that conspiracy by this defendant, you may find the
17 defendant guilty, if you find that any overt act has been
18 proved by the government to have occurred in the Southern
19 District of New York, as alleged in the indictment.

20 If you find that the government has failed
21 to establish beyond a reasonable doubt any one of the
22 four elements of the crime of conspiracy which I have just
23 enumerated and discussed in detail for you, then you must
24 find the defendant not guilty as charged.

25 On the other hand, if you should find that the

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2 government has sustained its burden of proof as to each and
3 every one of the four elements of the crime of conspiracy
4 as I have just enumerated and discussed for you as to this
5 defendant beyond a reasonable doubt, then you may convict
6 this defendant.

7 Now, ladies and gentlemen, the most important
8 part of this case is the part which you now as jurors are
9 about to play, because it is for you and you alone to
10 decide whether this defendant is guilty or not guilty as
11 charged in the indictment.

12 I know you will try the issues that have been
13 presented to you according to the oath which you have taken
14 as jurors. In that oath you promised that you would well
15 and truly try the issues joined in this case and a true
16 verdict render.

17 I suggest to you that if you follow that oath
18 and try the issues without combining your thinking with
19 any emotions, you will arrive at a true and just verdict.

20 It must be clear to you that once you get into
21 an emotional state and let fear or prejudice or bias or
22 sympathy interfere with your thinking, then you will not
23 arrive at a true and just verdict.

24 Now, again, your verdict must be unanimous and
25 must be either guilty or not guilty. Your verdict must

1 bsas38

2 reflect the conscientious conviction of each and every one
3 of you.

4 The jury is not to consider, or in any way to
5 speculate about the punishment which a defendant may receive
6 if he is found guilty. The function of a jury is, as I have
7 told you before, to determine the guilt or innocence of a
8 defendant on the basis of the evidence and the Court's
9 instructions as to the law.

10 It is then for the Court or the judge alone
11 who has the duty of determining the sentence, if there is
12 a conviction. So during the course of your deliberations
13 you are not to discuss any possible punishment.

14 As you deliberate, ladies and gentlemen,
15 please be careful to listen to the opinions of your fellow
16 jurors as well as to ask for an opportunity to express your
17 own views. No one juror holds the center stage in the jury
18 room, and no one juror may control or monopolize the
19 deliberations.

20 If, after listening to your fellow jurors,
21 and if, after stating your own view, you become convinced
22 that your view is wrong, don't hesitate because of stubborn-
23 ness or pride of opinion to change your view.

24 On the other hand, do not surrender your
25 conscientious conviction solely because of the opinion of

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2 your fellow jurors, or because you are outnumbered.

3 You are instructed that you are not to reveal
4 the standing of the jurors, that is, the split of the
5 vote, for any verdict to anyone including the Court at
6 any time during your deliberations.

7 At this time we will excuse the jury for a few
8 moments. You may retire to the jury room.

9 (Jury excused)

10 THE COURT: At this time, gentlemen, the Court
11 will take any exceptions you have to the charge. Does
12 the government have any exceptions to the charge?

13 MR. MacBETH: No exceptions.

14 THE COURT: Do the defendants have any excep-
15 tions?

16 MR. COOPER: Very few and very brief. First
17 we would except to the Court not giving those requests
18 which we had made previously and which the Court previously
19 stated it wouldnot give and those portions of the requests
20 which the Court did not give.

21 Your Honor, in addition, we except to the
22 Court's reference to the jury's duty to determine guilt
23 or innocence. We believe the jurors' duty is to determine
24 whether the government has proved its case beyond a reasonable
25 doubt and they don't have to find the defendant innocent

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2 in terms that the jurors understand that word in order to
3 bring back a verdict of not guilty.

4 Your Honor, as to the Court's charge on the
5 character evidence, the Court omitted the last paragraph
6 of our charge which states, your Honor, "You are further
7 instructed that the circumstances may be such that evidence
8 of the good reputation alone and without more may create
9 a reasonable doubt about the defendant's guilt, although
10 without it the other evidence would convince you that he is
11 guilty."

12 The Court did give a charge of character
13 evidence, I believe that one thought should have been given
14 and it was not.

15 THE COURT: What was the last part of that,
16 although what?

17 MR. COOPER: "Although without it, the other
18 evidence would convince you that he is guilty."

19 Finally, your Honor, the Court stated in
20 initially explaining the four elements of the crime of
21 conspiracy that one of Morris Brooks' acts must have been
22 in furtherance of the agreement he had to defraud the
23 government.

24 It must have been, your Honor, in furtherance
25 also of the agreement that Rabbi Rosenblatt had to defraud

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2 the government. The jury might conclude that Mr. Brooks
3 had one agreement and Mr. Rose-- Rabbi Rosenblatt had
4 another, or that Mr. Brooks had an agreement even though
5 it is not alleged with somebody else to defraud the
6 government. I believe the Court did not state the law
7 accurately in that regard.

8 THE COURT: Anything else?

9 MR. COOPER: No.

10 THE COURT: All right. Let's bring in the
11 jury.

12 (Jury present)

13 THE COURT: All right. At this time I will ask
14 the clerk to swear the marshals.

15 (One marshal was sworn by the clerk)

16 THE COURT: One of the jurors asked whether
17 he would have an opportunity to make a phone call. If you
18 will give the number and message to the marshal, he'll
19 make the call for you.

20 If you have any questions you want to ask
21 the Court, there will be paper and pencil furnished you
22 in the jury room, and you write out whatever it is you
23 want to know.

24 All right. You may follow the marshal to the
25 jury room.

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2 (Whereupon at 6:30 p.m. the jury retired to
3 commence deliberations)

4 THE COURT: Gentlemen, the jurors will be
5 going out to dinner at 7 o'clock. I will find out
6 where they are going so you can avoid that place. The
7 jurors will be going to Aldo's, so please avoid that
8 restaurant.

9 We will recess.

10 (Recess)

11 (Time noted: 9:00 p.m.)

12 THE COURT: Gentlemen, we have a note from the
13 jurors which reads as follows:

14 "We would like to see all documents for
15 evidence (these checks included. All exhibits)."

16 MR. MacBETH: There is only one problem, your
17 Honor, I have been unable to locate the original of one
18 of the ledger sheets. I would suggest substituting a
19 Xerox copy that I have. I looked for it among the items
20 I picked up yesterday, and I asked Mr. Goldman about it
21 in the middle of the day today.

22 Apart from that one ledger sheet, which I
23 do have a Xerox copy of, I believe that between us we have
24 all the exhibits.

25 MR. GOLDMAN: I have no objection.

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THE COURT: Pardon me?

3 MR. GOLDMAN: I have no objection to substitut-
4 ing a copy.

5 THE COURT: All right. What is the exhibit
6 number?

7 (Court's Exhibit A marked)

8 MR. MacBETH: It's Court's Exhibit 29.

9 THE COURT: You are substituting a photocopy,
10 is that it?

11 MR. MacBETH: Yes.

12 THE COURT: The defendants had only one exhibit,
13 is that it, Exhibit A.

14 The government's exhibits were Exhibit 8 through
15 44, is that it?

16 MR. MacBETH: I believe that is correct, your
17 Honor. I have all of them from 8 through 44, including 24.

18 (Government's Exhibit 29 marked in evidence,
19 substituted.)

20 THE COURT: Would you give those to the marshal
21 to give to the jurors.

22 (Recess)

23 (Time noted: 9:30 p.m.)

24 THE COURT: We have a new note from the jurors
25 which reads as follows:

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2 "In the Judge's charge to the jury there were
3 four conditions. We would like the definitions of these
4 conditions to determine a verdict."

5 Then they have enclosed Exhibit 18, the first
6 word I cannot make out, something of Exhibit Number 18
7 enclosed.

8 Do you want to look at it, Mr. MacBeth and
9 Mr. Goldman, and see if you can make out the first word,
10 second sentence?

11 MR. COOPER: Verification.

12 MR. GOLDMAN: That's the cashier's check.

13 THE COURT: Can anybody make out the first word
14 of that second sentence?

15 MR. MacBETH: I think the only thing to do is
16 ask, your Honor.

17 THE COURT: Have the jurors come in. We will
18 have the forelady read it.

19 (Time noted: 10:25 p.m. Jury enters
20 courtroom.)

21 THE COURT: Ladies and gentlemen, we have a
22 second note from you, which has been marked Court's
23 Exhibit B, and I will ask the foreman to read that. Are
24 you able to read that? Is that your handwriting?

25 THE FORELADY: Yes. The jury has asked me to

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2 make this note for reclarification in the Judge's charge
3 to the jury there were four conditions. They would like
4 the definitions of these conditions to determine a verdict.

5 THE COURT: What is the next sentence?

6 THE FORELADY: Clarification of Exhibit
7 Number 13, which was enclosed. That was the check for
8 \$8500.

9 THE COURT: You mean you want testimony regarding
10 that particular exhibit reread?

11 THE FORELADY: That is correct.

12 THE COURT: First I'll reread to you the four
13 essential elements of the crime of conspiracy and then the
14 reporter will have to look for the testimony regarding
15 that particular exhibit.

16 I will therefore reread those four conditions.
17 First the government must prove that this defendant now on
18 trial, and Morris Brooks, had an agreement or understanding
19 between themselves regarding the cashing of the eight
20 government checks in evidence.

21 Second, the government must prove that the
22 objective of the agreement or understanding was to defraud
23 the United States.

24 Third, the government must prove that this
25 defendant, who is now on trial, knowingly and wilfully

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2 entered into an agreement with Morris Brooks to defraud
3 the United States.

4 Fourth, it must prove that at least one of the
5 overt acts alleged in the indictment was in fact committed
6 by Morris Brooks here in Manhattan, and that that particular
7 overt act was knowingly committed by Brooks in furtherance
8 of the agreement or understanding which Brooks had with
9 this defendant to defraud the United States.

10 If you will return to the jury room, we will
11 have the reporter try to find the portions of the transcript
12 which relate to Exhibit 18.

13 (Time noted: 10:40 p.m., jury retires)

14 MR. GOLDMAN: Your Honor, the testimony of
15 Morris Brooks with regard to the check was on page 54 and
16 page 55 of the transcript. It's page 54 at line 6 --

17 THE COURT: Yes, I see it. Do you agree,
18 Mr. MacBeth?

19 MR. MacBETH: Yes, beginning at line 6 on 54 and
20 ending on line 11 on 55.

21 MR. GOLDMAN: 24.

22 MR. MacBETH: Yes. Then of course there is
23 testimony today from Mr. Rosenblatt and Mr. Rankel.

24 THE COURT: Where does it end on page 55?

25 MR. GOLDMAN: Line 23, the last answer with

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2 regard to that.

3 THE COURT: Is that agreed?

4 MR. MacBETH: That is agreed, your Honor.

5 THE COURT: Suppose we bring back the jury.
6 There is no cross-examination on that.

7 MR. MacBETH: There was examination today,
8 testimony today from Mr. Rosenblatt and from Mr. Rankel
9 on that check. I cross-examined Mr. Rosenblatt on it.

10 (Recess)

11 THE COURT: The reporter indicates that the
12 other minutes of the transcript this afternoon are locked
13 up in the court reporters' room and he doesn't have the
14 key and the guard's key doesn't fit that door. So we will
15 have to read those minutes in the morning. Call them back
16 and read the portions that we do have.

17 MR. MacBETH: Could I suggest that we read
18 the whole thing at one time. I think that is important
19 so they see the testimony about the check in its entirety.

20 MR. GOLDMAN: This portion may clarify the
21 question that they have.

22 MR. MacBETH: I would certainly insist that if
23 this is read that the other portion be read as well
24 that the jury has asked for, and the government strenuously
25 objects to reading only one portion without the other

1 bsas48

2 portion. The government would prefer to read all of it.

3 THE COURT: Was the other portion different
4 from what is testified to here?

5 MR. MacBETH: Yes. The other portion,
6 Mr. Rosenblatt says he can't remember anything about this,
7 and I then show him the check and he says he hasn't been
8 around these official checks to make it out, and Mr. Rankel
9 comes back and says Mr. Rosenblatt was there when the check
10 was made out, and since it's only endorsed with two
11 endorsements Mr. Rosenblatt received the money from him.

12 MR. GOLDMAN: Rabbi Rosenblatt testified that
13 he had no recollection to the specifics regarding these
14 particular checks.

15 MR. MacBETH: I think he said he didn't have
16 anything to do with those official checks. I think it's an
17 important piece of testimony.

18 THE COURT: All right. It's five minutes to
19 eleven now. We could wait until the morning. The bus is
20 ordered for 11. Bring in the jurors.

21 MR. GOLDMAN: May I just ask this? I think the
22 essence of the question -- I may be wrong -- the clarification
23 is as to who got the money, and we do have the
24 testimony as to who got it, and I think that is the issue.
25 I think Mr. MacBeth is asking to have the jury sleep on an

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2 erroneous impression. I don't believe that serves any
3 purpose.

4 MR. MacBETH: I am asking them to have the
5 complete testimony as to the check. They asked for the
6 testimony as to the check. It was broadly put, asking for
7 clarification, and didn't have the fact that the question
8 was put squarely to Mr. Rosenblatt and then it was
9 contradicted by the testimony of Mr. Rankel -- it would
10 be an entirely erroneous objection. The government
11 strenuously objects to any procedure to read only this
12 testimony and not the subsequent testimony.

13 THE COURT: We would read it in the morning.
14 You are insisting it all be read together?

15 MR. MacBETH: I think it's much better to read
16 it together so the jury sees it all.

17 MR. GOLDMAN: Can we ask the jury if they want
18 that portion that we have read? That might answer their
19 question. If not, we can go forward from there.

20 MR. MacBETH: It's a patent effort, your Honor,
21 by the defense not to have the colloquy today come in
22 before the jury again. I don't blame them. If I was
23 faced with the testimony from Mr. Rosenblatt and Mr. Rankel,
24 and I was in the defense shoes, I'd do the same thing.
25 I don't think it's fair to the jury and I don't believe it's

1 bsas50

2 proper.

3 THE COURT: We will wait until the morning.
4 Bring in the jury.

5 (Jury present at 10:55 p.m.)

6 THE COURT: Ladies and gentlemen, the court
7 reporter has attempted to find the testimony, all of it,
8 relating to Government's Exhibit 18. He finds only a
9 portion of it. The remainder is locked in the court
10 reporters' room and there is not a key available for that
11 now.

12 We will have to recess until tomorrow morning
13 when he can get the remainder of the testimony relating
14 to Exhibit 18.

15 We have arranged for buses to take you home
16 at 11, in any event. So if you will return to the jury
17 room and return tomorrow morning at 10 o'clock, we will
18 resume the deliberations.

19 (Time noted: 11:00 p.m.)

20 THE COURT: Let me caution you about discussing
21 the case other than in the jury room. Please do not
22 discuss it with anyone any time for any reason. Please
23 report to the jury room in the morning.

24 (Jury excused at 11 p.m.)

25 THE COURT: We will recess until 10 o'clock

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2 tomorrow morning.

3 (Adjourned to August 13, 1976, at 10:00 a.m.)

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2 UNITED STATES OF AMERICA

3 - against -

76 Cr. 142

4 ELYAKIM G. ROSENBLATT

5

New York, New York
August 13, 1976

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(Trial resumed)

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10 THE COURT: I believe the reporter indicates
11 that the appropriate portions of the transcript have now
12 been obtained, and we will bring in the jurors and read
13 to them --

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MR. MacBETH: Could we just agree on what those
are? I also believe there is some on page 68 that we
didn't locate last night that probably should be read, and
there are a couple of typographical errors that we should
clear up.

THE COURT: All right.

MR. MacBETH: There are two on page 68, your
Honor, in line 15 it reads, "At that time I took eight
thousand fifty." It should be \$8,500.

Then at the beginning of line 16 it says 4000.
It should say 1000.

THE COURT: Line 16 should be 1000?

MR. MacBETH: Yes. And I believe that the

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2 relevant testimony there runs from line 9 through line 23.

3 THE COURT: Do you agree, Mr. Goldman?

4 MR. GOLDMAN: Yes, your Honor.

5 THE COURT: What else is there? The first pages
6 were what, again, 58 or 54?

7 MR. GOLDMAN: 54, line 6, through 55, line 23.

8 MR. MacBETH: We have page 68.

9 THE COURT: Do we have something in addition?

10 MR. MacBETH: 356 line 25 through 357 line 16.

11 358 lines --

12 MR. GOLDMAN: 357 line 17?

13 MR. MacBETH: 16.

14 MR. GOLDMAN: What about the rest of it?

15 MR. MacBETH: We will put in more if you would
16 like. It goes on to the other government's exhibits.
17 We would be happy to continue it through line 13 on
18 page 358.

19 MR. GOLDMAN: That's perfectly appropriate.
20 359 line 19 through 360 line 10. Then 407 line 24
21 through 408 line 14.

22 THE COURT: Is that all of it?

23 MR. GOLDMAN: As far as I know, your Honor,
24 yes.

25 THE COURT: All right. We have an agreement

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2 from both parties as to what it is. Let's bring in the
3 jury.

4 (Jury present at 10:15 a.m.)

5 THE COURT: We have now located in the transcript
6 the appropriate portions of the record relating to
7 Government's Exhibit 18 which the reporter will now read.

8 (Record read)

9 JUROR NO. 9: Who are you referring to, Brooks
10 or the Rabbi --

11 THE COURT: Would you please read it again,
12 just start again three or four sentences back.

13 (Record read)

14 THE COURT: All right. You may return to the
15 jury room.

16 (At 10:25 the jury retired to resume
17 deliberations.)

18 THE COURT: We will recess.

19 (Recess)

20 (Time noted: 10:50 a.m.)

21 THE COURT: Ladies and gentlemen, we have
22 another note from the jurors, which will be marked Court's
23 Exhibit C, which reads as follows:

24 "We have reached a verdict."

25 Bring in the jury.

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2 (Court's Exhibit C marked)

3 (Jury present at 10:55 a.m.)

4 THE CLERK: Ladies and gentlemen of the jury,
5 please answer as your names are called.

6 (Roll called, all answer present.)

7 THE CLERK: Madam forelady, have you agreed
8 upon a verdict?

9 THE FORELADY: We have.

10 THE CLERK: How do you find the defendant
11 Elyakim Rosenblatt?

12 THE FORELADY: We the jury find the defendant
13 Rabbi Rosenblatt guilty as charged.

14 THE CLERK: Ladies and gentlemen of the jury,
15 listen to your verdict as it stands recorded. You say you
16 find the defendant Elyakim Rosenblatt guilty as charged,
17 and so say you all.

18 (All answer in the affirmative)

19 MR. GOLDMAN: May we have the jury polled,
20 your Honor?

21 (The jury was polled. All jurors answered
22 in the affirmative.)

23 THE COURT: All right, thank you very much,
24 ladies and gentlemen. I understand that your jury
25 service has now been completed and that the clerk has

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2 available for you your certificates of service, which he
3 will hand to the forelady and she will pass them out in
4 the jury room.

5 You are excused now with the thanks of the
6 Court.

7 (Jury discharged)

8 THE COURT: All right. At this time we will
9 set the date of sentence for Friday, September the 24th,
10 at 11 o'clock.

11 MR. MacBETH: Your Honor, I believe that
12 Mr. Rosenblatt is on \$10,000 personal recognizance bond.
13 The government would be willing to continue that bail but
14 would ask for the surrender of Mr. Rosenblatt's passport.

15 THE COURT: Do you have a passport,
16 Mr. Rosenblatt?

17 THE DEFENDANT: No.

18 MR. MacBETH: In that case, there is nothing to
19 surrender. The government is willing to continue the
20 present bail.

21 MR. GOLDMAN: Your Honor, may we have thirty
22 days in which to make motions with regard to this case?

23 THE COURT: Yes, that will be all right.

24 MR. GOLDMAN: Your Honor, I would like to
25 state to the Court at this time that despite the outcome

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2 of the trial I would like to thank the Court for its
3 consideration in the proceedings.

4 THE COURT: Thank you, gentlemen.

5 I just want to indicate on the record that a
6 presentence report will be required.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA

-against-

76 Cr. 142 (CBM)

ELYAKIM G. ROSENBLATT,

Defendant.

-----X

DEFENDANT'S REQUESTS TO CHARGE

The defendant requests that the Court include
in its charge to the jury the following instructions:

REQUEST NUMBER 1

EFFECT OF AN INDICTMENT

Throughout the trial, reference has been made to the indictment, and the fact that the defendant has been indicted. An indictment is merely the mechanism by which criminal charges are made and by which a defendant is brought to court. An indictment has no probative value whatsoever, and the fact that one has been filed in this case is of no consequence. The indictment is merely a legal prerequisite, a document which must be filed before a defendant is brought to trial in this Court.

REQUEST NUMBER 2CREDIBILITY OF WITNESSES

You are to determine to what extent you believe, or do not believe, each of the witnesses. There are various rules and guidelines to help you in making these credibility determinations, although your sharpest tool is probably common sense. You should consider the conduct, appearance and demeanor of each witness on the stand; his frankness or lack of frankness; inconsistencies between his testimony and any previous statements he may have made; his general character as indicated by his past history and conduct; any possible motive he may have had for testifying the way he did; the factual probability or improbability of his testimony; and his opportunity for observation or acquisition of information with respect to the matters about which he testified.

REQUEST NUMBER 2-a

CREDIBILITY OF WITNESSES WHO HAVE
PREVIOUSLY BEEN CONVICTED OF A CRIME

(It is respectfully submitted that this instruction follow that requested in Number 2 , "CREDIBILITY OF WITNESSES".)

In this respect, you will recall that one of the witnesses, Morris D. Brooks, acknowledged that he had previously been convicted of certain crimes. This evidence was submitted to assist you in considering the credibility of his testimony, and the weight to give it. The admissions of the witness on this score does not disqualify him as a witness nor automatically compel disbelief of his testimony. Such conduct, however, constitutes a major factor to be given serious consideration, along with all the others I have mentioned, in assessing his credibility.

REQUEST NUMBER 2-bCO-CONSPIRATOR-ACCOMPLICE TESTIMONY

(It is respectfully submitted that this instruction follow that requested in Number 2 , "CREDIBILITY OF WITNESSES".)

One of the witnesses who testified, Morris D. Brooks, is alleged by the Government to have been a co-conspirator of the defendant.

"In the prosecution of crime the Government is often called upon to use witnesses who are accomplices in the commission of the crime itself. This is particularly so in cases of conspiracy. Conspirators do not publicly proclaim their intentions to operate openly. It often happens that only members of the conspiracy have evidence which is relevant to and important in the case.

"However, experience has shown that accomplices may be motivated to place the responsibilities on others than themselves. Accordingly, an accomplice's testimony should be closely examined, weighed with care, checked with the facts which you find to exist in this case, and against the evidence which may corroborate them, and then you should give the testimony such value or weight as you deem

important under the circumstances.

"In the Federal Courts accomplice testimony by itself may be sufficient to convict if, but only if, it convinces you of the defendant's guilt beyond a reasonable doubt.

"It is, of course, proper for you to consider the interest which a witness has in the outcome of a case. . . All witnesses are to be judged by the same standards. But in determining the credibility of a witness, his interest in the outcome of the case is certainly a matter you are entitled to take into consideration. I do not mean to suggest that a witness who has an interest in the outcome of the case may not be telling the truth in spite of his interest, but you may consider that factor in determining what weight to give his testimony."¹

¹ Charge of Lasker, J., approved in United States v. Projansky, 465 F.2d 123, 136-137 (2d Cir.), cert.denied, 409 U.S. 1006 (1972).

REQUEST NUMBER 2-cMOTIVE TO TESTIFY

(It is respectfully submitted that this instruction follow that requested in Number 2, "CREDIBILITY OF WITNESSES".)

You will recall that one of the witnesses, Morris D. Brooks, testified that he was charged with crimes and pleaded guilty and that he cooperated and gave information to the Government in the hope, at least in part, that he would be treated more favorably than might otherwise be the case. You may consider these facts as constituting a motive for Brooks to testify as he did, and have a right to be skeptical about his testimony in view of these considerations. This constitutes another factor to be given serious consideration, along with the others I have mentioned, in assessing his credibility.

REQUEST NUMBER 3

UNTRUTHFUL WITNESS

I charge you further that, if you find that any witness has lied in a material respect, you have a right to disregard all of his testimony. Although you do not have to believe anything he said, it is within your province to dissect such testimony; in short, to credit that portion which you believe.

REQUEST NUMBER 4PRESUMPTION OF INNOCENCE

In our system of law there is a fundamental principle known as the presumption of innocence. This means that every defendant charged with the commission of a crime, is presumed to be innocent. The protection of that presumption stays with a defendant throughout the trial and is only removed if and when you, the jury, are convinced of his guilt beyond a reasonable doubt.

Because of this presumption, it follows that the defendant is not required to prove his innocence. The Government bears the burden of establishing beyond a reasonable doubt each and every element of the crime charged and the defendant's commission thereof. This is the burden the law places upon the prosecution and it remains with them throughout the trial.

REQUEST NUMBER 5REASONABLE DOUBT

Now, what do we mean by reasonable doubt? It means exactly what the words imply. A reasonable doubt is a doubt based upon reason; a doubt for which a juror can give a reason if called upon to do so in the juryroom; a doubt based upon evidence or lack of evidence in a case. A reasonable doubt is an actual doubt; a doubt which one is conscious of having after considering and analyzing all the evidence. If you should have such a doubt concerning the guilt of the defendant, he would be entitled to a verdict of not guilty.

Bear in mind, however, that a reasonable doubt may not be based upon some type of whim, guess, surmise or conjecture. Nor should it be deemed a shield behind which a juror may hide in order to avoid doing a disagreeable duty.

The Government is not required to establish guilt beyond any or all doubt, or to a mathematical certainty. However, the law does demand proof to a moral certainty, and, if the Government fails to sustain that burden, the defendant is entitled to an acquittal.

REQUEST NUMBER 6CONSPIRACY -- VENUE

(It is requested that this charge be given in conjunction with the Court's instructions as to the elements of conspiracy.)

As I have told you, one of the elements of this crime which the Government must prove is that an overt act committed in furtherance of the conspiracy by one of the conspirators took place in the Southern District of New York. Manhattan is in this district, but Queens is not. Therefore, the Government must prove that at least one act that took place in Manhattan was done in furtherance of the conspiracy.

The only testimony concerning acts that took place in Manhattan was that relating to the making of false entries and stealing of the checks by Brooks. You must therefore find that one of those acts was committed in furtherance of the conspiracy.

An act committed in furtherance of a conspiracy is one committed in execution of the common, agreed upon purposes as understood by the other conspirators. If the act does not fall within the scope of the unlawful project, or is merely

a ramification of the plan which could not be reasonably foreseen by the other conspirators as a necessary or natural consequence of the agreement, then it is not an act in furtherance of the conspiracy.¹ Thus, if you find that the falsification of the postal records by Brooks, or his stealing of the checks, was in furtherance of the conspiracy as I have defined that term, you may find that the Government has proved that element of the crime charged. If, however, you find that the commission of those acts by Brooks was not in furtherance of the conspiracy, this element will not have been proven, and you must acquit the defendant.

1 Adapted from Pinkerton v. United States, 328 U.S. 640 (1946).

REQUEST NUMBER 7CONSPIRACY -- AGREEMENT

(It is requested that this charge be given in conjunction with the Court's instructions as to the elements of conspiracy.)

In order to find that this element has been proven, you must find that the alleged conspirators, Brooks and the defendant, agreed to cooperate in achieving the same object. If you find that one of the conspirators had one object in mind, such as defrauding the Government by stealing postal checks, while the other had a different object, such as defrauding the Government by, for instance, helping to evade taxes, then there was no conspiratorial agreement, and this element has not been proven. You must then acquit the defendant.

REQUEST NUMBER 2-aCONSPIRACY -- AGREEMENT

(It is requested that this charge be given in conjunction with the Court's instructions as to the elements of conspiracy only if the charge requested in Number 7 is rejected.)

The gist of the crime of conspiracy is an agreement, and as I told you, one of the elements of this crime is that the conspirators, in this case Brooks and the defendant, agreed to perform an illegal act or a legal act by unlawful means.

The agreement alleged in this case is one to defraud the United States. The defendant is not charged with conspiring to cash checks or take a percentage of checks that may have been cashed. Those acts are not illegal or unlawful, and one who does them, even if he agrees or conspires with another to do them, is not guilty of a crime. It is only if you find that the defendant agreed to defraud the United States that you may find this element of the crime charged to have been proven.

REQUEST NUMBER 7-b

CONSPIRACY -- AGREEMENT

(It is requested that this charge be given in conjunction with the Court's instructions as to the elements of conspiracy.)

But when a person with whom another conspires secretly intends not to go through with the plan, neither party can be convicted of conspiracy because there was no agreement between two persons.¹ A person who is duped into acting, not agreeing to the object of his actions, is not a conspirator.²

1 Wechsler, Jones and Korn, The Treatment of Inchoate Crimes in the Model Penal Code of the American Law Institute: Attempt, Solicitation, and Conspiracy, 61 Colum.L.Rev. 951, 966 (1961).

2 Woo Wai v. United States, 223 F.412 (9th Cir.1915).

REQUEST NUMBER 8CHARACTER EVIDENCE

The defense has introduced evidence of Rabbi Rosenblatt's reputation in the community for honesty, veracity and integrity. The purpose in introducing such evidence is to show that it would be unlikely that a person with this character should commit the crime charged. You are instructed that evidence of good reputation is admissible for this purpose, and that you should consider this evidence along with all the other evidence in the case in determining whether the Government has proved the defendant's guilt beyond a reasonable doubt.

You are further instructed that the circumstances may be such that evidence of a good reputation alone and without more may create a reasonable doubt about the defendant's guilt, although without it the other evidence would convince you that he is guilty.

Respectfully submitted,

KUH, SHAPIRO, GOLDMAN,
COOPERMAN & LEVITT, P.C.

Attorneys for Defendant

Robert E. Goldman
Andrew R. Cooper

Of Counsel

August 12, 1976

United States District Court

THE SOUTHERN DISTRICT OF NEW YORK

RAYMOND F. BURGHARDT

NOV 1976 CR. 112

In the presence of the attorney for the defendant,
the defendant appeared in person on this date.

MONTH DAY YEAR
SEPT. 24 1976

After reading the indictment to the defendant and asking whether the defendant desired to
be represented by counsel, the defendant waived assistance of counsel.

EX. 1. ROBERT GOLDMAN, ESQ.

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea, ☐ INDIG. CONTENTORE, ☒ NOT GUILTY

FINDING & JUDGMENT

There being ~~no~~ verdict of ☐ NOT GUILTY, Defendant is discharged
☒ GUILTY

Defendant has been convicted as charged of the offense(s) of conspiring to defraud the United States. (Title 18, United States Code, Section 371).

fine
SENTENCE
OR
PROBATION
ORDER

SPECIAL
CONDITIONS
OF
PROBATION

ADDITIONAL
CONDITIONS
OF
PROBATION

as charged.
The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of SIX (6) MONTHS. The defendant is fined \$8,000. The fine of \$8,000 is a committed and the defendant is to stand committed until the fine is paid or he is otherwise discharged according to law.

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

The court orders commitment to the custody of the Attorney General and recommends,

MICROFILM

SEP 28 1976

It is ordered that the Clerk deliver
a certified copy of this judgment
and commitment to the U.S. Mar-
shal or other qualified officer

SIGNED BY

RAYMOND F. BURGHARDT

CONSTANCE BAKER MOTLEY

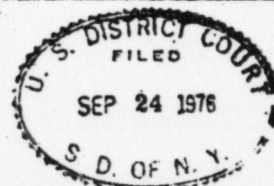
A TRUE COPY

RAYMOND F. BURGHARDT, CLERK

By

Deputy Clerk

9/24/76



37

Service of 3 copies of the
within Appendix is hereby
admitted this 24th day of
Nov. 19 76

Signed _____

Attorney for Appellee

